S. HRG. 101-145

MOTOR CARRIER SAFETY

HEARINGS

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

MOTOR CARRIER SAFETY

APRIL 18 AND 19, 1989

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MOTOR CARRIER SAFETY

TUESDAY, APRIL 18, 1989

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, DC.

The subcommittee met at 2:06 p.m. in room SR-253, Russell Senate Office Building, Hon. J. James Exon (chairman of the subcommittee) presiding.

Staff members assigned to these hearings: Sheryl Webber Washington, professional staff member; Robert Holleyman, staff counsel; Alan Maness, minority staff counsel; and William Heyer, minority professional staff member.

OPENING STATEMENT BY SENATOR EXON

Senator EXON. The subcommittee will please come to order.

This afternoon the Surface Transportation Subcommittee has scheduled the first of two days of hearings on the implementation of the Motor Carrier Safety Act of 1984, the Commercial Motor Vehicle Safety Act of 1986 and the Truck and Bus Safety and Regulatory Reform Act of 1988, as well as new proposals to improve motor carrier safety.

The Department of Transportation has taken important steps to improve safety in a number of areas, but it is clear that more still needs to be accomplished. Legislation to strengthen our motor carrier safety program will be the cornerstone for our efforts during the 101st Congress to improve the safety of the traveling public.

On the subject of motor carrier safety generally I applaud many of the efforts the Federal Highway Administration has undertaken in the past few years to improve and strengthen its management structure and safety outreach programs.

Congress has indeed passed many laws to improve motor carrier safety in recent years. These legislative initiatives have resulted in such programs as the respected Motor Carrier Safety Assistance Program and the Commercial Driver's License Program.

However, with nearly 6,000 highway fatalities and several billions of dollars in related economic losses attributed annually to accidents involving trucks and buses, we must continue to reevaluate the policies and programs affecting commercial motor vehicle safety.

According to the National Highway Safety Administration, 5,996 people died in 1986 alone in accidents involving medium and heavy trucks and buses. Some of the areas identified as those in which improvements can be made were included in S. 819, the Motor Car-

rier Safety Act of 1989, a bill I introduced just today with Senators Danforth, Kasten, and Adams.

Generally the bill requires that DOT make safety rating information available to the public regarding those carriers which it has rated as unsatisfactory and disallow these carriers from transporting hazardous materials or operating passenger buses. As many as 1,200 motor carriers with unsatisfactory safety ratings continue to transport hazardous materials at the current time, and this must be corrected.

The bill also requires DOT to develop operational guidelines for suspending the operation of any motor carrier which poses an imminent hazard to safety, doubles the penalty level for distributing drugs at truck stops, and calls for a DOT rulemaking on whether brake improvements are needed, including anti-lock brake systems and better brake compatibility.

Some of the other issues to be addressed in this bill include a random MCSAP reinspection program for vehicles placed out of service for previous infractions and a DOT procedure requiring FHWA inspectors to initiate an enforcement action against any motor carrier found guilty of serious safety violations.

The need for many of the provisions contained in this bill are well documented in Congressionally requested motor carrier studies conducted over the last 2 years by the Office of Technology Assessment and the Congressional Research Service.

Today we will hear from Dick Landis, Associate Administrator for Motor Carriers, Federal Highway Administration, as well as representatives from the Office of Technology Assessment, the Congressional Research Service, and the Arizona Department of Public Safety.

Senator Kasten do you have a statement?

OPENING STATEMENT BY SENATOR KASTEN

Senator KASTEN. Thank you, Mr. Chairman.

Mr. Chairman, I commend you for calling this hearing on the Motor Carrier Safety Act of 1989. I have cosponsored this legislation and I look forward to developing a record on its proposals.

I support the Motor Carrier Safety Act of 1989 because it offers practical solutions to a number of motor carrier safety problems. For instance, it will help promote safety by publicizing the names of those carriers that receive an "unsatisfactory" safety rating from the Federal Highway Administration. These carriers will be prohibited from transporting hazardous materials or operating passenger buses on our Nation's highways. The bill will also help end the distribution of narcotics within the motor carrier industry by creating drug-free zones around all truck stops.

In addition to these provisions, the Department of Transportation will be required to conduct a rulemaking on the need for improved truck braking performances—including the use of anti-lock systems. As trucks become larger, speeds increase, and congestion gets worse, the need for advanced braking technologies is critical to help prevent accidents.

These and other provisions make-up what I feel will be a very successful safety bill. In closing, let me add that our past motor

carrier safety bills have been successful because government and industry have worked together on them. I look forward to similar co-operation in this attempt to further improve motor carrier safety.

Thank you again, Mr. Chairman.

Senator EXON. With that, I will hold the record open at this interval for any opening statements that other members of the Committee wish to put in the record, and we will begin with Mr. Richard Landis, as I have indicated, the Associate Administrator for Motor Carriers, Federal Highway Administration, Department of Transportation.

Mr. Landis, welcome to you. We are glad to have you in front of the Committee again.

STATEMENT OF RICHARD LANDIS, ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS, FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. LANDIS. Good afternoon, Mr. Chairman, and members of the Committee.

It has been a long 18 months since we were here last time to talk about our program and, believe me, much has taken place in that time. I have prepared testimony that details our activities involving and including the completion of the implementation of the Motor Carrier Safety Act of 1984, having met or exceeded every deadline of the Commercial Motor Vehicle Safety Act of 1986, and the fact that we are now on schedule with the 5-month-old Truck and Bus Safety and Regulatory Reform Act of 1988.

With the Chairman's permission, I would like to submit that testimony for the record.

Senator EXON. The full testimony is accepted for the record, without objection.

Mr. LANDIS. Thank you, Mr. Chairman.

Also in the prepared testimony I have included a discussion on many different items. They include revision of the regulations, which you directed so long ago, review of the State safety regulations, the motor carrier safety rating process. We have discussion of our authority over private buses, the commercial driver's license program, the driver qualification standards, the commercial driver's blood alcohol level, the Motor Carrier Safety Assistance Program, the commercial zone exemption, a unique identifier for the CDL, and drug testing.

And in preparing for today's testimony it became clear that it was extremely difficult to explain these many elements of our program and the ways in which they are integrated. All of these things are part of the national program aimed at improving safety performance of trucks and buses.

I felt that it might be most beneficial for me to take the time this afternoon to walk through the entire program rather than discuss the elements one at a time, as we have done in the past. To do this I have brought along a chart, a representation of our program, and with the Chairman's permission I would like to take a few minutes and walk through that program and describe each of the elements and show how they fit together.

Senator EXON. We would like to hear it.

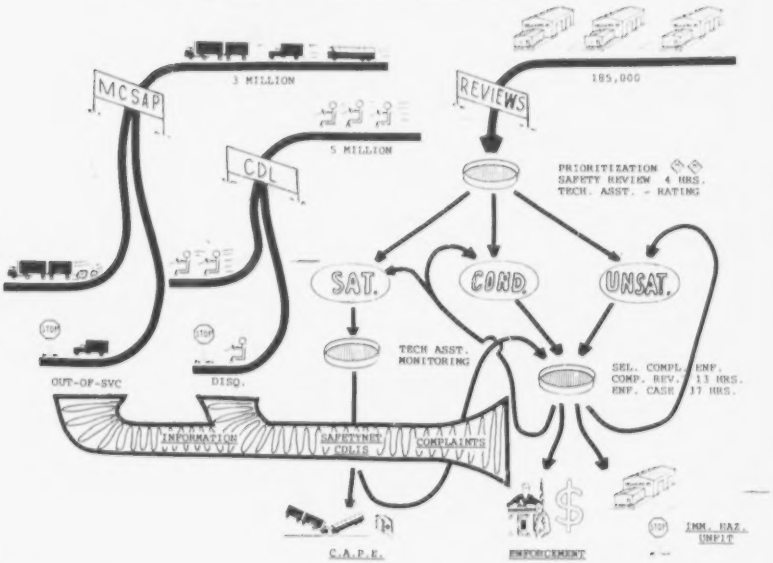
Mr. LANDIS. What we have is a chart that was derived last weekend. We were working last week on the various elements to describe to you, and we decided that there was a need to put all the elements into one graphic presentation. We wanted to show you how the pieces all fit together in the long term.

John Hibbs from my staff worked on it over the weekend. I think he came up with this in the shower. But, at any rate, this is, in short form, our best representation of how our program is working and will work. I intend, by the way, to reduce this in size so that we can submit it to you for the record.

[The chart follows:]

FEDERAL HIGHWAY ADMINISTRATION

MOTOR CARRIER SAFETY PROGRAMS



What we have are three different programs here at the top. Here is the Motor Carrier Safety Assistant Program, MCSAP, which is the on-highway look at commercial motor vehicles, trucks and buses.

The second piece which is being implemented now is the Commercial Driver's License. The piece over here is the Safety Review process. We are now reviewing the safety performance of motor carriers, some 185,000 of them.

Also, I would like to explain, at the outset, this tube. It represents our information systems. We have discussed with you the development of the Motor Carrier Information Management System, the Safetynet, the Commercial Driver's License Information

System. All of these come together into our information system, represented by a tube where information goes in and will come out at the end.

Let me start over here with MCSAP. MCSAP represents about 3 million trucks and buses subject to inspection when projected into the next year and on—3 million vehicles at the MCSAP level using primarily State resources. What we represent here are those vehicles that pass the MCSAP inspection. They drive on down the road without any difficulty at all.

The second branch of this MCSAP inspection is where vehicles are found to have difficulties. We depict that here by a stop sign because we, in fact, apply an out of service standard and stop that vehicle right where it is until the defects are fixed. Then it goes on its way.

Also represented is the process where the information from the inspections under the MCSAP program done by the State enters this tube; the information system is capturing the data there.

The second program is the commercial driver's license [CDL]. We are under way with the CDL program now. In fact, California has issued over 20,000 licenses since beginning issuing commercial driver's licenses in January. We estimate about 5 million drivers will be involved in this program.

Again, the CDL is looking at the driver in terms of qualifications, in terms of his ability to pass a written test and his ability to show performance in operating the commercial vehicle. If he passes that test, he goes on down the road. If he does not, he is stopped. He is disqualified. He cannot go into the business of operating a commercial motor vehicle. That information goes into the tube.

The biggest program we have under way right now is the safety review process. That is represented here by motor carrier companies. We are looking at the companies in the safety review process, as opposed to the individual trucks and the individual drivers.

What we have done is take the 185,000 estimated population of motor carriers and we have gone through a prioritization process. We have put hazardous materials carriers and transporters of passengers as the top priority. There is further stratification, but at any rate we have boiled that down to be the top of the review process and we have been doing what we call a Safety Review [SR].

The SR is a look at the management practices of those carriers and it takes about four hours, on the average. The purpose is to make a determination of how management is going about doing its business. The SR's go into what we represent here by a sieve, which is a sorting process. As a result of the SR motor carriers go into one of three different categories.

Over here is satisfactory. Satisfactory rating as a fitness determination means that the company is operating within the guidelines and is not having a significant accident experience.

The conditional is the second category. What we are using this category for is to further stratify this 185,000 carriers. When conditional, we know that a company has by looking at its management systems, an increased likelihood that it may be involved in a safety problem in the future, and we concentrate on that. It is our middle category.

The third category is the unsatisfactory carrier. The unsatisfactory carrier is that carrier which, by looking at its management practices and controls, shows that there is a clear pattern showing that that carrier is not operating in compliance with regulation and has an accident experience.

Using those three categories, we now have the ability to concentrate our efforts on the unsatisfactory carriers, followed by the conditional carriers. We now have a trigger for a second process that we have called the Compliance Review [CR]. It used to be called an audit. We now call it Compliance Review. It takes about 13 hours on the average. It is a much more detailed inspection.

One of the difficulties I will just point out quickly is this difference between the 13 hours and the 4 hours, which does not include travel time, by the way. You can see that when you are dealing with 185,000 carriers this is really a way to get the job done. We do not have sufficient resources to commit 13 hours to each carrier.

So what happens is we have another stratification down here, another sorting point. Based upon the CR, the in-depth look, these conditional and unsatisfactory carriers go into this sorting process and come out in the bottom in a number of sanctioning processes.

We represent it right here with the sanction of enforcement, which may be a monetary fine, it can be compliance orders, it can be a number of sanctions that are available to us.

There is another sanction shown here. It is the determination that a carrier is an imminent hazard. It is a determination that we are still defining. We are very close to having it defined, but we do not have it done yet. But it is a critical part of the overall system.

The imminent hazard determination is really the ultimate penalty that we are going to have in our system, which tells the carrier, all right, all of this does not work, you have not taken our technical assistance, you have not complied, you have expressed no willingness to do so; it is time for you to be out of business. That is a stiff penalty. And it is a legal, court-based type action.

The satisfactory carriers—let me go back to that for a moment—go into this pool, where there is further stratification because what we do with the satisfactory carries is that we continue a technical assistance program with them, providing them different tools so that they can operate in compliance and safety. We monitor their progress by looking back into this tube. Our information system is designed to give us—in time will give us the information based upon roadside inspections, on the commercial driver's license, on the review of the truck or bus, on the look at the drivers, and the accidents and the complaints. The information system will catch our attention, when a satisfactory carrier fails to maintain safety and compliance in the system.

Then we have a loop that brings him back over into this side. So if he does not stay satisfactory we do not ignore him.

The last program is down here at the bottom called Commercial Accident Prevention and Evaluation (CAPE). The purpose is to use this information system to identify carriers that are beginning to have problems.

For instance a carrier who is having a disproportionate number on the average of accidents turning. Our information system will discover this change. We can then go to the carrier and say, "Our

records are showing that you are having this kind of a problem. Here is how you might solve that." It is outside of the enforcement loop, and it gives technical assistance that leads to positive adjustments. When we talk about our program you can see a great deal of it involves technical assistance. The enforcement is important but comes after the sorting processes takes place.

Again, this is a graphic description of how our program goes full circle. It includes all of the initiatives that I described in my opening statement, and I believe it will help us as I respond to your questions.

With that, Mr. Chairman, I will stop and answer your questions.

[The statement follows:]

STATEMENT OF

RICHARD P. LANDIS
ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS
FEDERAL HIGHWAY ADMINISTRATION

BEFORE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
SUBCOMMITTEE ON SURFACE TRANSPORTATION
UNITED STATES SENATE

ON

MOTOR CARRIER SAFETY ACCOMPLISHMENTS

April 18, 1989

* * *

Mr. Chairman and Members of the Committee, I am pleased to be here today to report on the significant achievements of the Federal Highway Administration in the area of motor carrier safety. Our motor carrier activities have proceeded at a rapid pace since your last oversight hearing.

For example, we completed the implementation of the Motor Carrier Safety Act of 1984 and have met or exceeded every deadline in the Commercial Motor Vehicle Safety Act of 1986. In addition, we are on schedule with the five-month-old Truck and Bus Safety and Regulatory Reform Act of 1988.

These actions have been possible, in part, because of your assistance in providing needed financial support, which allowed us to add to our staff in terms of both quantity and quality in pushing forward on these important safety measures.

In addition, we have developed a close working relationship with the States individually and through organizations, such as the American Association of Motor Vehicle Administrators and the Commercial Vehicle Safety Alliance.

Here is a summary of what we have done to implement the major requirements of the recent motor carrier legislation and some of our other significant activities.

I. MOTOR CARRIER SAFETY ACT OF 1984

The Motor Carrier Safety Act of 1984 directed us to revise the entire body of the Federal Motor Carrier Safety Regulations, to improve the compatibility of all state and Federal regulations affecting interstate truck and bus transportation, to establish a procedure for determining the safety fitness of carriers, to require a periodic inspection program for commercial vehicles, and to bring private bus operations under the safety regulations.

Revision of Regulations

With the publication of the last of the new rules last year, we have reissued all the safety regulations.

Part 390 of the regulations contains the general provisions, including the applicability requirements. This part was thoroughly overhauled to make the regulations clearer. Definitions scattered throughout the regulations were consolidated. The statutory definition of a commercial motor vehicle

contained in the 1984 Act clarified which operations are covered by the safety regulations. Part 390 contains several selected exemptions that are established either in the law (such as government vehicles and school buses in certain operations) or through rulemaking (such as emergency vehicles).

This revision also eliminated the 50-year-old commercial zone exemption from most of the safety regulations and required marking of private commercial motor vehicles with a DOT identification, similar to the Interstate Commerce Commission requirement covering for-hire carriers.

Part 393, dealing with equipment standards, was revised to reflect ever-changing vehicle technology and to be more consistent with the vehicle standards of the National Highway Traffic Safety Administration (NHTSA), which apply to newly manufactured vehicles. The compatibility of NHTSA vehicle standards for new vehicles with the FHWA standards for vehicles in operation was a major goal of the revisions to this part.

One noteworthy example was our revision of Part 393 to require operational brakes on all wheels of commercial vehicles manufactured after July 25, 1980, and to require many others to be retrofitted. Our rule on front brakes is now fully consistent with NHTSA's requirements.

Part 394 was revised to specify additional accident-reporting requirements.

Part 395, dealing with hours of service of drivers, underwent some revisions aimed mainly at clarification and reducing the paperwork burdens associated with recordkeeping.

Part 396 deals with inspection, repair, and maintenance. In December 1988, we issued a final rule requiring that such vehicles undergo an inspection at least annually.

Review of State Regulations

The 1984 Act established the Commercial Motor Vehicle Safety Regulatory Review Panel charged with achieving uniformity among Federal and State motor carrier safety requirements affecting interstate motor carrier operations. In February, we sent a letter to the Governor of each State reporting the Panel's initial findings. Slightly over half of them were informed that some of their safety requirements would need changing in order to be compatible with Federal regulations. We will use the responses from the Governors to help develop a final report.

Carrier Safety Ratings

The 1984 Act also required that we establish a safety fitness process for motor carriers. The purpose of the new safety fitness procedures is to assess a carrier's safety management system to ensure that a carrier is complying with the regulations and to assign a safety rating. We have developed specific programs to complement the safety fitness procedures and we have included in our Fiscal Year 1990 budget request an additional 185 staff positions to assist in implementing these programs.

Through the Educational and Technical Assistance Program, the FHWA provides motor carriers guidance to improve their knowledge of the Federal safety

regulations and effective safety practices, as well as to gain carrier compliance with the safety requirements. An on-site safety review is the focal point of this program and provides the basis for the safety rating. We have conducted over 40,000 reviews in the past 2 years.

Under the Selective Compliance and Enforcement Program, the FHWA conducts a compliance review of motor carriers receiving a "conditional" or "unsatisfactory" safety rating. The goal of the program is to correct unsafe practices and achieve compliance with Federal safety requirements, so the motor carrier may earn a "satisfactory" rating. The FHWA focuses its resources on carriers and hazardous materials shippers having the greatest need for improvement. Approximately one-quarter of the carriers are subject to enforcement action. We take enforcement action and levy penalties for continued noncompliance. We collected approximately $2 million in fines during fiscal year 1988 resulting from these enforcement actions, more than twice the amount we collected in 1985.

Private Buses

In February, we published a notice of proposed rulemaking to bring private bus operations under the safety regulations. We propose to apply the regulations as uniformly as possible. However, we recognize there are different types of private passenger operations which must be accommodated. We can strike a reasonable balance. Private carriers of passengers with hired drivers would comply with the same regulations as for-hire operators. Carriers with volunteer or occasional drivers would be required to meet the

vehicle safety requirements. Driver requirements would be met through the commercial driver's license program. The comment period closes on June 19.

II. COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986

Commercial Driver's License Program

The Commercial Motor Vehicle Safety Act of 1986 created the Commercial Driver's License (CDL) program, which will significantly improve the safety of commercial vehicle operations for years to come. Very simply, the Act made it illegal for drivers to hold multiple licenses and established a uniform classified license system. The Act required that all commercial drivers demonstrate knowledge and skills necessary to operate their vehicles competently and safely.

The single license requirement took effect July 1, 1987. One year later, we issued the final rule establishing minimum standards for State testing and licensing of commercial drivers. The CDL system represents a major change for many states and requires complex implementation guidelines under tight time frames; nonetheless, we finished the rulemaking on time, and the states are implementing it on schedule. On January 3 of this year, California issued the first CDL. Twelve States have passed legislation to implement the program and we are expecting a majority to have done so by the end of this year. We expect 22 States to be linked to the clearinghouse by year's end and the rest by early 1991.

In developing the clearinghouse, we worked closely with NHTSA, which operates the National Driver Register, and with the American Association of Motor Vehicle Administrators, which is operating AAMVAnet, an electronic telecommunications network through which the States access the clearinghouse. This network provides and preserves the integrity of the single-license, single-record concept of the CDL program.

We have allowed States the option to exclude operators of firefighting and emergency vehicles and most farm vehicles from the CDL requirements. We have also exempted military vehicles operated by uniformed military personnel.

Driver Disqualifications

Over and above the testing and licensing requirements, the Act places other responsibilities on the States. For example, a State must disqualify a driver convicted of serious traffic violations, such as excessive speeding and reckless driving. Two convictions in 3 years bring a minimum 60-day disqualification; 3 convictions bring a 120-day disqualification. To help the States apply these disqualifications uniformly, we published a proposed rule defining serious traffic violations. We plan to issue a final rule this summer.

Blood Alcohol Content

The Act also required DOT to establish a blood alcohol content threshold above which a commercial driver is deemed under the influence of alcohol and

subject to CDL disqualification. The final rule, published October 4, 1988, set 0.04 percent as the level for DUI. The standard for CDL disqualification is in addition to other state laws providing licensing sanctions and criminal penalties for DUI violations. The CDL standard will serve to underline the importance of strong DUI laws and regulations in deterring individuals from driving under the influence of alcohol.

Motor Carrier Safety Assistance Program

The 1986 Act bolstered the highly successful Motor Carrier Safety Assistance Program (MCSAP). The program received a substantial funding increase and is now funded at $60 million annually through FY 1991. Approximately $13 million is earmarked this year to support the CDL program.

In FY 1988, MCSAP funded 2,800 State personnel nationwide who conducted 1.2 million roadside vehicle inspections. These resulted in 470,000 vehicles and 83,000 drivers placed out of service for serious safety violations.

Some vehicles placed out of service may not be repaired. We have initiated a study to determine the magnitude of the problem. We reported on this work in a January 9, 1989, letter to the Senate and House Appropriations Committees. As we stated then, we will complete the study and determine whether the situation justifies spending resources on it.

III. TRUCK AND BUS SAFETY AND REGULATORY REFORM ACT OF 1988

Commercial Zone Exemption

The Truck and Bus Safety and Regulatory Reform Act of 1988 removed the exemption for motor carriers conducting interstate operations within commercial zones. It permanently grandfathered persons who legally operated in a zone and would otherwise be unqualified to drive because of a medical or physical condition. We amended our regulations to reflect the new grandfather provisions.

Driver Fatigue

The 1988 Act also directed a study of the hours-of-service regulations to determine their relationship with fatigue and serious accidents. We have initiated a multi-year study of driver alertness and fatigue. We sponsored a two-day public forum in Washington last November and will be collecting additional information on driver fatigue and ways to improve driver alertness. We will use the results of these efforts to report to Congress next year.

Unique Driver Identifier

The 1988 Act directs us to establish a biometric identification system for the CDL program. We are initiating pilot tests of digitalized fingerprinting and retinal imaging.

IV. OTHER PROGRAMS

Drug Testing

Last November, we issued requirements for motor carriers to test drivers for controlled substance use. Five types of testing--preemployment, periodic, reasonable cause, post-accident, and random selection--are required. The U.S. District Court for the Northern District of California has imposed a preliminary injunction prohibiting post-accident and random testing. We are considering the reinstatement of the post-accident testing portion of the regulations, in view of the Supreme Court's decision upholding the Federal Railroad Administration's post-accident testing rule. The random testing portion of the regulation is awaiting a Supreme Court decision. The other three types of tests will go into effect as scheduled.

Truck Size and Weight

The National Truck Network, established as a result of the Surface Transportation Assistance Act of 1982, now consists of 181,000 miles of highways on which the states must allow longer trucks. Last December, we published proposed regulations that would establish a 5-mile minimum standard of reasonable access off the Network without compromising safety. The Transportation Research Board (TRB) is completing a congressionally mandated study. We will provide the comments to our rulemaking docket to TRB and will consider the results of the TRB report before proceeding to a final rule.

Organizational Changes

Last fall we established a Hazardous Materials Division to strengthen enforcement of the hazardous materials regulations. We are training 180 of our field investigators, and we have added nine full-time regional hazardous materials program managers.

Last fall we also established a new senior position to coordinate all bus safety matters and serve as liaison with the bus industry. We recognize the important role buses play in this country and that bus safety issues are often unique.

We are proud of the achievements made in the motor carrier safety program over the past few years. Just 4 years ago, the FHWA reorganized its motor carrier functions under the Associate Administrator for Motor Carriers. The initiatives we are implementing now--the Commercial Driver's License Program, MCSAP, safety fitness procedures, and our drug and alcohol provisions--are the foundation for the future of motor carrier safety. We are committed to making these initiatives work.

The 1986 Act was an important turning point. We made organizational changes and devoted special resources to carry out the mandates. We met every deadline. We established a partnership with industry and the States. The States are revolutionizing their testing and licensing practices and are as committed as we are to meeting the objectives of the law.

I am pleased to meet with you and discuss our accomplishments. Thank you for sharing the draft legislation with us. We will provide our formal views on it soon. I look forward to responding to your questions about our program.

Senator EXON. Thank you very much, Mr. Landis. That was very interesting.

Let me just ask you before you go sit down, whether you have any percentages developed as to how many companies that originally find themselves in the unsatisfactory column then start moving up. Is it 10 percent or 30 percent?

Likewise, are there any percentages with regard to those who are satisfactory dropping back to either the second or the last category?

Mr. LANDIS. Mr. Chairman, I do have some numbers that are preliminary results of an effort that we started in January and I think you referred to in your opening statement—1,200 unsatisfactory carriers.

We, over a 6-week period, focused essentially all of our field resources to answer your question, which is, "what is happening to those unsatisfactory carriers." Let me give you some of the preliminary results of our effort because I do think they are interesting.

1,177 compliance reviews were conducted over that 6-week period. The beginning ratings were 79 percent unsatisfactory, 11 percent conditional, 5 percent satisfactory. The remaining 5 percent had no previous rating. Enforcement action resulted from 23 percent of those compliance reviews; 82 percent of the carriers improved their safety ratings based upon actions taken since the previous review.

So what we are drawing from that—and I think it is an important conclusion although preliminary—it is our belief, strong belief, that our program is placing carriers in the unsatisfactory area. We are then assisting them through information, through coercion—I guess coercion is not the right word—but through penalties, through prosecution, and a number of other ways. We are seeing compliance improve; 82 percent of those carriers improve their safety ratings.

Senator EXON. The Office of Technology Assessment, Mr. Landis, will testify this afternoon that accident rates for the large and heavy trucks increased by 15 percent between 1982 and 1986, despite a 10-percent drop in the number of tractors in use nationally.

To what do you attribute this increase, given the legislative mandates in the safety area and your agency's efforts?

Mr. LANDIS. I think we have attributed any increase in accidents to increased exposure generally. It is our finding in the most recent years, which are the ones that we want to concentrate on most, the ones that we are working on now, is that the fatal accident rates are in fact coming down.

We are still seeing some increase in the raw numbers, again of accidents that had been submitted to us by the motor carriers. But the fatal accident rates are still on the down trend and have been for a number of years.

Senator EXON. Rates are on the down side?

Mr. LANDIS. Yes, sir.

Senator EXON. So by that statement, plus the testimony that you gave here, you are concluding that you think we are making some progress. Would you say significant progress? Are you well satisfied, satisfied, or not so well satisfied with our efforts so far?

Mr. LANDIS. I think I am satisfied that we are doing a good job with what we have and we are doing what we ought to be doing, and that will lead to steady increases in motor carrier safety. I am, like you, still not satisfied with the number of people being killed and it is something that we do not let up on.

I think what we have shown here is the fact that we now have the tools, that in the long term—and I think that is an important idea to understand—because it is in the long term we are going to come together and truly realize the full impact, to get control and bring those numbers down.

Senator EXON. The Congressional Research Service and GAO have both told Congress that relying on voluntary compliance is ineffective. What evidence do you have that your educational strategy is improving safety in this particular area? What else can we do?

Mr. LANDIS. I do not agree with the Congressional Research Service conclusion that voluntary compliance is not working. We will never have, in my estimation, sufficient resources to gain total compliance within this industry by whip or by hard-handed means. We must rely on voluntary compliance. It is a basic premise of law enforcement I recall from my days as a highway patrolman. Most of our work was maintaining a system to keep the voluntary compliance in check. Usually it worked; sometimes you had strays.

But we also feel very strongly that it is a fundamental responsibility of ours to provide assistance, technical assistance, to these 185,000 carriers. There are so many of them that have not been part of our program in the past. We just simply are beginning to work with them.

Senator EXON. What statistics do you have, if any, conclusive or otherwise, regarding the increased speed limits and its effect on safety?

Mr. LANDIS. Mr. Chairman, I do not have anything readily available to me. I am sure we do have some of that, if you would like I can supply for the record.

[The following information was subsequently received for the record:]

The principal conclusions of the recent National Highway Traffic Safety Administration [NHTSA] report entitled: "Report to Congress on the Effects of the 65 mph Speed Limit During 1987" were:

All rural Interstate fatalities in 1987 increased compared to 1986. The increase was 19 percent in the 38 States that increased the speed limit at some time during 1987 and 7 percent in the 10 States that retained the 55 mph speed limit on rural Interstates. Nationwide, rural Interstate fatalities increased 18 percent in the 48 States with these highways (Alaska and Delaware do not have rural Interstates) compared to 1986.

The fatality rate (fatalities per 100 million miles) on rual Interstates increased by 15 percent in 1987 compared to 1986. The fatality rate increase was 14 percent in the 38 States that increased the speed limit. In the States that remained at 55 mph, the fatality rate was unchanged.

Based on travel speed data provided to NHTSA by 13 States that increased their rural Interstate speed limit, average travel speeds on rural Interstates in the first full calendar year quarter after the speed limit change (July through September 1987) increased. The increase was from 60.3 mph to 62.2 mph compared to an increase from 57.2 mph to 57.6 mph in rural Interstate speeds to States that retained 55 mph.

There was much State-to-State variation in the 1986–1987 changes in rural Interstate fatalities. For the 38 States that increased their rural Interstate speed limit in 1987, rural Interstate fatalities increased 21 percent compared to 1986 for the days

the higher speed limit was in effect. However, of the 38 States, 11 had no increase or a decrease in fatalities while 27 States had an increase. Further, 8 of the 38 States accounted for 71 percent of the total 1986-1987 rural Interstate fatality increase in these States.

Rural Interstate fatalities account for about 5 percent of total traffic fatalities each year, or about 2,100 fatalities per year. An increase in rural Interstate fatalities of 20-25 percent (as estimated by the National Academy of Sciences) would effect total highway fatalities by about 1 percent.

The speed limit increase must be in effect for a longer period before its long-term effect on highway safety can be determined.

Senator EXON. Thank you very much.

I believe Senator Gorton is next. Senator Gorton?

Senator GORTON. Thank you, Mr. Chairman.

Senator Kasten, who was called away, had two questions for Mr. Landis and I am simply going to read them to him on behalf of Senator Kasten.

Mr. Landis, in 1987 this Committee required the Congressional Research Service to study the Motor Carrier Safety Assistance Program. CRS found that the program is quite successful. CRS discovered, however, that about 10 percent of those trucks placed out of service for critical safety defects returned to the highway without correcting those defects.

The report suggested that a system for random reinspection would use only minimal resources and put an end to this problem. Do you agree and should such as system be implemented?

Mr. LANDIS. Let me first of all compliment the work of the Congressional Research Service, which I think was a good picture of a program that is growing and is doing well.

Specifically on the issue of reinspection, I think the recommendation, frankly, is a bit premature. What we are developing—and it is on the far side of the chart—is the MCSAP program, where we are using limited resources for the States to enhance their motor carrier programs primarily for on-side road inspection.

We have conducted a couple studies. CRS says something in the neighborhood of 10 percent. Our numbers probably range in the 8- to 9-percent range of vehicles who may not be adhering to the out of service action.

The difficulty that I have is that I think we and the States both question the benefit of applying the kind of resources you would need to reinspect trucks and enforce the out of service criteria. The intent of MCSAP was to increase the level of inspection. The CRS suggestion proposes taking resources from inspection and moving it someplace else.

The answer to your question is that I think it is premature. We are very aware of it. We are looking at it. We have an ongoing study now with the State of Michigan to further define the extent of the problem and we will work out a solution to it.

Senator GORTON. A question on a second subject. The bill which is the subject of this hearing requires the Department of Transportation to make publicly available the names of all carriers receiving an unsatisfactory safety rating. By making this information public will the reaction of the marketplace thereafter offer an incentive for these carriers to improve safety?

Mr. LANDIS. Disclosure is already occurring. Our safety ratings are not secret. We make them available to two entities directly on

line through the computer system now. The Interstate Commerce Commission is one and the Department of Defense is another. The Department of Defense made a decision, an administrative decision, that they will not employ any carrier who does not have a satisfactory rating.

The second issue is making that information public. Other than discussing is the best means to make the information public, I do not have any disagreement with doing so. It is available now simply for the asking by anybody. Maybe we could make that fact known better.

Senator GORTON. So you do not object to that provision in this bill?

Mr. LANDIS. Not at all.

Senator GORTON. Thank you, Mr. Chairman.

Senator EXON. Thank you.

Senator Danforth.

Senator DANFORTH. Mr. Landis, over 1,100 carriers that have been classified as unsatisfactory are being allowed to transport hazardous materials or operate passenger buses. Is this not something we should change?

Mr. LANDIS. Well, part of my intent in trying to describe how our system is working is so you can see that we are going to change that, and we are going to change it very shortly. The key to this discussion is the unsatisfactory rating.

The unsatisfactory rating was not initially designed nor was it ever intended to be a decision point of whether a carrier should remain in operation or not. It is used in our system, our scheme of things, as a means of stratifying the 185,000 to 200,000 carriers that we regulate into categories so we can focus our attention on the most serious problems.

After assigning carriers to categories, we drop into the compliance review. It is at that point where we have the in-depth look at the specifics of the company, whatever it may be. In this case we have given high priority to the hazardous materials carriers and the passenger carriers.

It is at that point, after the compliance review, that the decision should be made whether to pursue, as I suggested earlier, the most significant or the most drastic, I guess, of our sanctions available.

Senator DANFORTH. It seems clear to me that if a carrier has received an unsatisfactory rating that carriers should not be transporting hazardous material or people.

Mr. LANDIS. The determination of whether they should or should not, in our opinion, is the finding that they create an imminent hazard, that there is something so wrong that it must be fixed immediately. The SR process does not give us enough, it is not so precise as to give us that kind of a determination.

What it does, is focus our attention through the Compliance Review process. It is then that we can make the determination of whether they should or should not remain in business, and we will make that determination.

Maybe it would have been better in our process to call it something other than unsatisfactory, but it was the best way to design the program at the time. But the unsatisfactory rating has taken

on some new meanings that, for whatever reason, is not really what we intended for it.

Again, we are not that precise in our SR type view of the company to go to a point where we then put it out of business or even sanction it, actually. There has to be a step beyond that, and that is what we have put into our program.

Senator DANFORTH. Well, I do not know. It seems to me common sense that if a carrier has an unsatisfactory rating you do not want it to be transporting hazardous material or people.

Mr. LANDIS. If the unsatisfactory rating were determined by the factors that we look at in the Compliance Review, I would agree with you, Senator, but they are not. The SR does not go far enough to serve as the basis for enforcement action, including the placing of the carrier out of service.

Senator DANFORTH. The bill that Senator Exon and others have introduced would require the Department of Transportation to conduct a rulemaking on the need to adopt methods for improving truck braking performance. What would your view be of that?

Mr. LANDIS. I think rather than give you the answer by speaking to the bill it may be more appropriate to tell you what we are doing and that might help put one position into perspective until we have an official view on the bill's proposal.

We have in NHTSA the heavy vehicle anti-lock program and in September of 1988 a $3.4 million contract was awarded to Southwest Research Institute in San Antonio, Texas, to provide overall system support for this effort. The Institute has subcontracts with the Vehicle Monitor Corporation of Redlands, Washington, for instrumentation, Equifax from Atlanta, Georgia, for data collection and on-site support.

A total of 17 fleets located in 6 cities will participate with us in this test program. The first fleet test of vehicles was put into service October 1988. I could go through a list of those carriers, if you would like, but in the interest of time I will pass. The remainder of the 200 vehicles will be put in service between now and May of 1989.

Instrumentation to monitor the operation of the anti-lock brake system will be installed in each of the anti-lock-equipped trucks. In addition, in each fleet there will be one control truck which will have standard brakes, which will be equipped with the same kind of instrumentation. And data from these recorders will be used to make certain that the anti-lock brakes are performing properly and to determine how often the anti-lock capability is called into use. Maintenance records are also being maintained and looked at.

All five anti-lock brake manufacturers—WABCO, BOSCH, Midland, Bendix, Rockwell—will be represented in the test program, each with 40 vehicles. Systems will be installed on heavy trucks from all the major U.S. manufacturers, which include Freightliner, Ford, Navistar, Mack, Volvo, GM, Peterbilt, and Kenworth.

That is what NHTSA is working on. On our side, in the Office of Motor Carriers, our Program has identified high priority research areas, as we call them.

Senator DANFORTH. Just studying?

Mr. LANDIS. By all means, yes. There are a number of things that need to be studied, various elements of it. One of the areas is

the evaluation of brake adjustment criteria, the adequacy of the——

Senator DANFORTH. I am told they are putting this in place on all new European trucks in 1991.

Mr. LANDIS. I do not know that, Senator.

Senator DANFORTH. Congress commissioned a study in 1986, so we are just continuing the study; is that it?

Mr. LANDIS. Well, I think what I was just going to describe to you was the number of areas that we are looking at. Not any particular brake system, but the overall brake situation to indicate to you and this Committee that we are certainly not leaving the brake issue alone. It continues to be one of the major factors that we find in our roadside inspection program.

The study that NHTSA has just described is comprehensive and will lead to some very good results. We are looking at the various pieces of the brake system that are discovered in the roadside inspection as the ones that are commonly found to have difficulty. If we can find answers to those problems and fix them, I think that is where we should be headed.

You have to do that through research. I do not think that is an unreasonable approach to be looking at the out-of-service criteria, including everything from tread depth to slack adjustors. There is a long list of things that need to be looked at.

Senator DANFORTH [presiding]. Senator Exon had to leave for a vote in the Budget Committee.

Senator Kasten.

Senator KASTEN. If my message is the same as his, I am not sure that the vote in the Budget Committee is in fact about to occur. I was just told it might be postponed, but I am supposed to be there also, and I think maybe you are, too, are you not?

Senator DANFORTH. No. I am happy to say I am no longer on the Budget Committee.

Senator KASTEN. Fine. I have no questions at this time, Mr. Chairman.

Senator DANFORTH. Senator Lott.

Senator LOTT. I have no questions at this time, Mr. Chairman, thank you.

Senator DANFORTH. Okay. Thank you very much, Mr. Landis.

Mr. LANDIS. Senator, members of the Committee, thank you very much.

Senator DANFORTH. We next have a panel, Mr. John Andelin, Assistant Director of Science, Information and National Resources Division of the Office of Technology Assessment, and Dr. Paul Rothberg, Science Policy Research Division, Congressional Research Service.

Mr. Andelin, I understand you are a last-minute substitute, that Ms. Page has the flu, and I appreciate very much your being here and you, too, Dr. Rothberg. Who would like to go first? Dr. Rothberg.

STATEMENT OF DR. PAUL F. ROTHBERG, SCIENCE POLICY RESEARCH DIVISION, CONGRESSIONAL RESEARCH SERVICE

Dr. ROTHBERG. During the last 2 years, at your request, CRS has conducted two studies on the Federal Highway Administration's Motor Carrier Safety Program. We found that despite increasing Federal efforts the safety and compliance record of many truck companies continues to be of major concern.

Each year in more than several hundred thousand accidents involving commercial motor vehicles roughly 5,800 people die and 160,000 are injured. As shown on page 10 of our written testimony, accident data collected by both the Federal Highway Administration and NHTSA show that we are not making any discernible headway. In fact, since 1982 the fatality and injury situation has worsened. Federal Highway's assertion that the fatal accident rate is improving is not supported by reliable nationwide data.

We do know, however, that as of last month, Federal Highway had determined that more than one-half of the carriers it had reviewed did not have adequate safety management controls in place to ensure compliance with Federal Highway's safety fitness standard. Furthermore, State enforcement officials are still placing roughly 40 percent of the trucks that they inspect out of service because they find serious or critical safety violations.

This disturbing picture suggests that we must ask: How effective have Federal Highway's programs been?

The CRS research concludes that Federal Highway's policy of relying primarily upon industry's voluntary compliance with the safety regulation is generally ineffective. The Federal government's 30-year-old practice of stressing educational activities over enforcement is not promoting a sufficient level of safety. The frequency and amount of Federal Highway's civil penalties has not convinced enough carriers to comply with the safety regulations.

Because of these factors, we concluded that continued reliance on existing laws and Federal Highway's gradual improvement of its own policies would be a risky strategy. In our reports we analyzed many low-cost, but what we think to be effective, options that are designed to improve safety and Federal Highway's program. I will outline four of the most important options.

The first option would require Federal Highway to initiate an enforcement action whenever it can document serious safety violations. This option is incorporated into S. 819. Federal Highway rarely brings enforcement actions during its first visit with a motor carrier even when serious safety violations could be documented.

If this Agency implemented a strong enforcement mandate, more truck companies would make the needed effort to comply with Federal Highway's regulations. Although such a mandate would reduce this Agency's discretionary authority, it would ensure that Federal Highway effectively responds to such serious violations as falsifying log books and medical cards, forcing drivers to operate more hours than allowed, or letting drivers use vehicles with seriously defective equipment.

Even with a tough enforcement mandate Federal Highway could still conduct most of the educational activities that it is currently providing. For example, Federal Highway could continue sending

its educational materials and advisory letters prior to its first contact with the carrier. Such a cost-effective and balanced approach is designed to give the motor carrier a second chance to come into compliance with the safety regulations.

But once this is done it would be even more cost-effective to respond to serious violations with an enforcement action rather than another warning from Federal Highway which anticipates yet another visit by Federal Highway. This enforcement action becomes especially significant when one considers that because of Federal Highway's scarce resources it can easily be another 5 to 10 years before Federal Highway investigators can go back to a carrier with previously identified compliance problems.

Option 2: require Federal Highway to improve the information released in its safety ratings and to widely disseminate these ratings.

Federal Highway has spent much of its time during the last few years determining the safety fitness of more than 65,000 motor carriers. In its ratings, Federal Highway uses only three categories that are so broad that their safety assessment value is very limited. Shippers, the public and insurance companies cannot find out whether a carrier with a conditional rating was a step away from being rated unsatisfactory or satisfactory. Roughly 44 percent of the carriers have been assigned this very broad category called "conditional". Also, Federal Highway does not effectively publicize the availability of its safety ratings.

The impact on safety from these ratings would be substantially improved if more informative assessments of a motor carrier's operations were used by more interested parties. Improved and increased information about a carrier's safety fitness would allow the forces of the marketplace to promote compliance.

To do this, the Committee might consider requiring that whenever Federal Highway releases safety ratings that it also list those parts of the regulations on which a carrier failed to achieve satisfactory compliance. Federal Highway already has this information in its computer banks. S. 819 does not require more informative safety ratings.

Widespread dissemination of the names of those carriers with an unsatisfactory safety rating would also be useful, provided due process was afforded.

Option 3: prohibit carriers with an unsatisfactory safety rating from transporting certain hazardous materials until their compliance level is at least improved to a conditional rating.

Federal Highway's files indicate that there are over 1,200 motor carriers that have been assigned an unsatisfactory rating that are transporting such hazardous materials as explosives, flammable gases, and toxics. S. 819 would prohibit carriers with an unsatisfactory rating from transporting loads of these materials that require placards.

The Committee might consider expanding the coverage of this provision to include other loads of hazardous materials determined by the Secretary to present an unreasonable risk. Due process protection mechanisms to allow for re-ratings would be essential if this option became law. The existing safety rating regulations provide for due process remedies. S. 819 would strengthen these.

Federal Highway maintains that its safety ratings are intended primarily for internal management purposes, but Congress in the Motor Carrier Safety Act of 1984 stated that Federal Highway shall determine a procedure for specifying safety fitness and that this information be used for regulatory purposes.

When FHWA spends 4 to 5 hours with a truck company determining its safety fitness, it could effectively assess whether a particular carrier should be transporting hazardous materials.

And the last option. Require each State participating in MCSAP to institute a verification program to ensure that trucks taken out of service are actually fixed. In our review of MCSAP we found one major problem with this generally successful program that is administered by Federal Highway. Namely, there is no Federal requirement that a State enforcement official paid with Federal MCSAP dollars checks to see if the critical safety defects noted during an inspection are actually getting fixed before the truck returns to our highways.

In most States, inspectors are generally not checking to see if these defects are properly fixed. Data collected by some 700 enforcement officers from some 19 States suggests that roughly 10 percent of the trucks taken out of service return to our Nation's highways with out of service defects.

The effectiveness of the current program is relying heavily on a process that allows industry to self-certify that the defects are corrected. This certification process is ineffectively audited and inconsistently enforced among the States. For too many inspections the system is just not working. Consequently, Federal dollars are being wasted and Federal transportation safety dollars are very scarce.

S. 819 calls for a verification program to be established to check randomly that critical defects are fixed. Within Federal standards, each participating State could develop its own verification strategy that best meets its resources and priorities. The very threat that more States will be checking for the truck driver that thinks he can beat the current system will be a deterrent.

Although random verification would slightly reduce the number of trucks inspected each year, a small quantity of inspections could wisely be sacrificed to promote the integrity of the MCSAP. Our research shows that even with a very extensive reinspection procedure, one that is not called for in S. 819 you would reduce the total number of trucks inspected by less than 2.5 percent each year.

Federal Highway maintains that it wants to do more studies on this problem. However, Russ Fiste, Executive Director of the Commercial Vehicle Safety Alliance, maintains that while further studies are continued there are strategies, such as certification that all the defects have been fixed as evidenced by mandatory return of the inspection form that can be pursued now. This is one of the provisions that is articulated in S. 819.

The additional paperwork burden imposed by random verification and mandatory certification, as required in S. 819, would very likely be worth the cost. These costs are likely to be minimal because many States, if not most States, are already requiring the inspection form to be returned.

Setting up different verification strategies will be a challenge for the MCSAP community. This Federal-State partnership already has solved many more difficult challenges.

Thank you very much.

[The statement and questions and answers follow:]

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STATEMENT OF DR. PAUL F. ROTHBERG, CONGRESSIONAL RESEARCH SERVICE, BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION, APRIL 18, 1989

Mr. Chairman and Members of the Subcommittee:

The Congressional Research Service (CRS) appreciates this opportunity to present testimony on the Federal Highway Administration's (FHWA's) motor carrier safety program. Our statement is based on two studies that were requested by this Committee. The first study deals with the Motor Carrier Safety Assistance Program (MCSAP) and the second study deals primarily with FHWA's regional program for motor carrier safety.[1,2] The following statement presents a summary of these studies which evaluated several options intended to improve the effectiveness or efficiency of MCSAP and FHWA's program. Seven of these options are incorporated into various provisions of the bill, which you are considering today. The option of allowing FHWA to continue to improve these programs at its own pace is also discussed below.

THE MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

In June 1988, the Senate Committee on Commerce, Science and Transportation published a CRS report on the effectiveness of the Motor

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[1] U.S. Congress. Senate. Committee on Commerce, Science and Transportation. Motor Carrier Safety Assistance Program (MCSAP): Options Intended to Improve a Generally Successful and Cooperative Federal/State Partnership Promoting Truck and Bus Safety. Committee Print 100-109. 100th Cong., 2d Sess. Washington, U.S. Govt. Print. Off. June 1988. 72 p.

[2] U.S. Congress. Senate. Committee on Commerce, Science and Transportation. Motor Carrier Safety and the Federal Highway Administration's Education and Enforcement Efforts: Options Intended to Improve an Overloaded Program. Committee Print. 101st Cong., 1st Sess. Washington, U.S. Govt. Print. Off. Apr. 1989.

Carrier Safety Assistance Program (MCSAP). The report concludes that MCSAP has proven itself to be, in general, a successful and cooperative Federal/State inspection effort promoting truck and bus safety. In most States, however, the integrity of the inspection process mandated by MCSAP --specifically the follow-up component--can frequently be subject to serious question.[3]

STATUS AND ACCOMPLISHMENTS OF MCSAP

Since 1983, the Federal Highway Administration (FHWA) has transformed the legislative concept of MCSAP into a fairly respected program, now involving some 2,750 primarily State (full- and part-time) officers, supported or supervised by some 490 administrative (full- and part-time) personnel. Last fiscal year, MCSAP officers conducted about 1.25 million inspections of vehicles and drivers. As a result of the efforts of the FHWA and the Commercial Vehicle Safety Alliance, (CVSA--a coalition of State and other transportation safety officials), both the quality and quantity of these inspections have improved. More could be done, however, to improve the effectiveness of these enforcement activities.

Under the authority of the Surface Transportation Assistance Act of 1982, and subsequent laws, FHWA will award during FY 1989 a total of about $46 million in MCSAP grants to 48 participating States and 3 U.S. territories. These funds are used primarily to enforce the Federal or compatible State motor carrier safety and specified hazardous materials transportation regulations. From FY 1988 through FY 1991, MCSAP grants, which are drawn from the Highway Trust Fund, are planned to total approximately $183 million. With these and other associated State funds, State highway patrol officers and other State safety officials will conduct about five to six million inspections of truck and bus drivers, trucks and buses, and perhaps 30,000 to 40,000 safety reviews and audits of carriers. As a result of these inspections, probably two to three million commercial motor vehicles and drivers allegedly not meeting certain Federal or compatible State safety regulations will be taken off the Nation's highways until, presumably, detected deficiencies are corrected.

MCSAP has benefited both Federal and State commercial motor vehicle safety efforts in a variety of ways. MCSAP has become a foundation for Federal-State cooperation in truck and bus safety. MCSAP, very likely, has reduced the number of death and injury causing accidents that might otherwise have been caused by unsafe trucks and buses. Additionally, MCSAP

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[3] Data compiled after the preparation of the CRS report by some 700 State safety officers provided quantitative evidence that can be used to support this concern. These inspectors found that roughly 10 percent of some 1,000 vehicles that were taken out-of-service for critical safety defects were not properly fixed regarding the critical items before the drivers of these trucks returned or tried to return the vehicles to the highway.

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has required State and industry planners to reevaluate their policies and programs affecting commercial motor vehicle safety. Furthermore, MCSAP has significantly increased the inspection presence of State safety officials; promoted compliance with and uniformity of Federal and State motor carrier safety and specified hazardous materials transportation regulations; and enhanced industry's awareness of the importance of safety.

AREAS OF CONCERN ABOUT THE IMPLEMENTATION OF MCSAP

The conduct of a comprehensive and efficient nationwide commercial motor carrier enforcement program requires a comprehensive and efficient management information system. FHWA's SAFETYNET, MCSAP's management information system, was intended to serve this purpose, but it currently does not. At least two to four years of additional developmental work, testing, and installation will be necessary to get the entire SAFETYNET system and supporting software to the point where it will be of optimal value. Only then, will Congress, FHWA, and the States be able to obtain comprehensive data on MCSAP inspections, accident data, audit reviews, and their relationships. Incremental parts of SAFETYNET, however, will come on-line during the next few years.

There are other problems about FHWA's administration and implementation of MCSAP. The major one is that FHWA does not require State inspectors to reinspect trucks and buses that have been taken out-of-service because of serious safety defects.[4] Consequently, MCSAP inspectors in most States do not usually ensure, e.g., visually check, that these vehicles have been repaired so that they are in compliance with minimum safety standards regarding critical safety items before these vehicles re-enter the Nation's highways. The effectiveness and integrity of the current program frequently relies heavily on an inconsistently enforced and ineffectively audited process that allows industry to self-certify that critical safety defects were corrected properly. In many cases, motor carriers and their drivers, however, are responsive to the compliance requirements issued by MCSAP inspectors. A more effective and credible MCSAP would be achieved, however, if inspectors knew that compliance was being achieved in more cases as a result of their work.

Verification by MCSAP inspectors that the necessary critical repairs were actually performed would ensure that MCSAP is achieving one of its major objective–promoting enforcement and compliance with safety regulations. Verification, either on a random or uniform basis, would strengthen the economic incentives for carriers to maintain their fleets in compliance with safety regulations. Any verification process with no increase in inspectors,

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[4] Because of the changing nature of FHWA's policies, States, carriers, drivers, and others affected by inspection activities or regulatory requirements should consult directly with FHWA and the concerned State for their latest requirements and should not rely on this statement.

however, would reduce the total number of trucks inspected and could cause logistical problems for some carriers who operate seriously defective vehicles. However, if a verification system were developed that: (1) required vehicles that were placed out-of-service to at least be offered for reinspection, and (2) required that, for example, one out of every five such trucks were reinspected only to ensure that critical defects were actually corrected, only about 25,000 to 30,000 fewer inspections (about 2.3 percent) would be conducted each year. The benefits of enhancing the integrity of the entire MCSAP effort would very likely outweigh the costs of slightly reducing the total number of trucks inspected each year.

There are other problems with the current inspection process. For several years, FHWA did require that: (1) a copy of every inspection report with violations noted be sent by the issuing State to the motor carrier, and (2) this report be signed and returned by an official of the motor carrier. FHWA, however, did not ensure that this requirement was fulfilled. Some States did not even send the inspection report to the motor carrier. Recently, FHWA has converted this MCSAP requirement into a strongly encouraged guideline. Adherence to such a guideline/requirement is important because it makes truck or bus safety managers more aware of problems that need to be better monitored and defects that must be corrected. Under the current system, many carriers are never informed that their vehicles and/or drivers were found during a MCSAP inspection to be in noncompliance with safety requirements. Additional time and money would be needed for State enforcement support personnel to process and track these inspection forms, but overall, the costs of the additional paperwork would be minimal especially when considered in light of potential safety benefits.

The legislation the Subcommittee is considering would help ensure that more trucks are fixed and are in compliance with the safety regulations and more carriers are notified that their vehicles or drivers were not in compliance with the safety regulations. The flexibility provided in the bill would allow each State to develop its own verification program in accordance with FHWA regulations. Two of the possible disadvantages of the provisions in the bill dealing with MCSAP were addressed above.

Even though the Surface Transportation Assistance Act of 1982, envisaged an inspection program that included buses and hazardous materials-laden trucks, some States are conducting virtually no MCSAP-sponsored inspections of these vehicles. For example, based on FY 1988 program accomplishments tabulated by FHWA as of March 1989, some 15 States were conducting less than 10 bus inspections per year under MCSAP; and 4 States were conducting less than 50 hazardous materials inspections per year under this program. The same FHWA data show that about 30 States are conducting essentially no safety management or compliance audits under MCSAP, which are important components of a motor carrier safety enforcement program. Roughly the same number of States did not participate in these program areas during FY 1987. The Subcommittee might wish to consider ways to ensure that each State participating in MCSAP conducts a comprehensive program. If more requirements were added to MCSAP, some

States might be less willing to participate in this program. Before additional Federal requirements were imposed, the willingness of States to continue participating in this important safety program and financial limitations would need to be considered.

OPTIONS THAT MAY IMPROVE AND STRENGTHEN MCSAP

In view of MCSAP's accomplishments to date, it does not appear that the Congress needs to take any legislative remedies to change the fundamental design of this program. As oversight of MCSAP continues, it may be worthwhile, however, to consider what actions Congress might wish to review to strengthen or improve MCSAP's implementation. These options, some of which are incorporated into the legislation, include:

- promoting the integrity of MCSAP-funded inspections by requiring stringent follow-up procedures such as by requiring the issuance of a form that must be signed by the person making the required repairs and the motor carrier responsible for the safety of either the involved driver or vehicle;

- requiring each State participating in MCSAP to establish a random verification program meeting Federal standards to ensure that vehicles and drivers taken out-of-service because of serious safety problems are returning to our Nation's highways with these problems corrected;

- directing FHWA to encourage more participation of local and county police officers in MCSAP with adequate funds to ensure quality training and proper oversight of these officers; and

- directing FHWA, based on guidance from the States and industry, to issue recommended penalty amounts to be imposed on carriers and drivers that have violated the Federal motor carrier safety and the highway-oriented hazardous materials transportation regulations.

As shown in table 1, each of these and other options discussed in detail in the CRS report has its own unique set of advantages and disadvantages that Congress may wish to analyze in terms of its likely impact on the flexibility that MCSAP now has, the total cost of the program, the willingness of States to participate in the program, and other factors discussed in this report. Any change to the current MCSAP effort would probably be most effective if it increases the economic incentives that carriers and drivers have to maintain their vehicles and themselves in compliance with applicable safety regulations.

Congress also may wish to consider expanding the purposes and objectives of MCSAP so that this program could do even more to enhance commercial motor vehicle safety. If additional MCSAP funds, beyond the amount now appropriated from the Highway Trust Fund, were used to deal more effectively with truck and bus drivers that violate speeding restrictions, traffic operating rules, drug and alcohol restrictions, and the motoring public's knowledge of how to drive with trucks on our highways, many additional lives might be saved. To reduce duplication, it would be essential to coordinate any new MCSAP-initiatives in these areas with existing DOT and State/local activities.

There is also the option of allowing FHWA to continue gradually to improve MCSAP without additional congressional guidance. For example, working closely with CVSA, FHWA could continue its efforts to improve the quality, comprehensiveness and monitoring of MCSAP-supported inspections and bring a comprehensive and effective SAFETYNET on line. While this option may eventually achieve the same goals as the options outlined in the CRS report, this course could be risky especially if FHWA is unable or willing to address the concerns addressed in the CRS report.

TABLE 1. Selected Options Intended to Strengthen or Improve MCSAP

	Requires FHWA funds	Requires MCSAP funds	Reduced flexibility of MCSAP	Possibly reduced willingness of States to participate
1. Promote the integrity of MCSAP-sponsored inspections by requiring a random reinspection process to verify that critical safety defects are properly corrected.		[1] X	X	X
2. Increase local or county police involvement in MCSAP		[1] X	X	X
3. Issue standards or guidelines for financial penalty actions	X		X	X
4. Further educate State officials	X	or [1] X		X
5. Increase congressional guidance:				
(more specificity for current effort)			X	X
(expanded authorities)		X		
6. Publish FHWA newsletter on MCSAP	X			
7. Accelerate SAFETYNET's Progress	X			
8. Improve FMCR & HMTR	X			
9. Increase FHWA personal managing or working on MCSAP	X			
10. Maintain the current program	X	X		

[1] In relationship to the total amount of Federal funds already devoted to MCSAP, the amount of funds that would need to be taken away from existing State MCSAP activities is expected to be minimal.

FHWA's REGIONAL MOTOR CARRIER SAFETY PROGRAM

At the request of this Committee, CRS also conducted an extensive review and analysis of the FHWA's motor carrier safety program. This report will soon be published as a print of the Committee. The following summary of our report considers recent accomplishments of FHWA's program, areas of concern, and options intended to improve FHWA's program with special attention directed to those incorporated into the bill.

RECENT ACCOMPLISHMENTS OR ACTIVITIES UNDERTAKEN TO IMPROVE FHWA'S PROGRAM

With its staff of some 303 safety specialists and managers in its regions, FHWA is struggling to promote the safety and the degree of compliance with specified safety regulations of some 180,000 truck and bus companies, 5 million commercial drivers, and 25,000 shippers of hazardous materials. Even though its employees are dedicated to its mission, FHWA cannot perform effectively all of the safety-related tasks that Congress and the Secretary of Transportation have assigned to it.

Out of some $24 million in its FY 1988 safety budget, FHWA directly used about $14.2 million to enforce the Federal motor carrier safety, hazardous materials transportation, and financial responsibility regulations and to educate industry about its responsibilities under these regulations. FHWA's program targets the heart of the safety problems found in the motor carrier industry. It deals with such concerns as driver fatigue, vehicle maintenance, insurance coverage, driver qualifications, management review of drivers, and compliance with the hazardous materials transportation regulations.

Especially during the last three years, FHWA has undertaken concerted efforts to improve and strengthen numerous aspects of its motor carrier safety program. To deal more effectively with its workload, FHWA has instituted a new system of determining which motor carriers are most in need of auditing. FHWA has increased its regional work staff by 165 employees during the last few years, going from 138 in FY 1985 to 303 at the end of FY 1988. In addition, this safety organization has improved the national uniformity of its program, by centralizing its safety rating process and by seeking to improve the consistency of its enforcement actions taken against motor carriers. To improve the quality of its operations, FHWA has instituted several new training courses at the DOT's Transportation Safety Institute, including new enforcement procedures.

FHWA has taken several steps to improve the overall management structure of its operations. Each of FHWA's nine regions now has a Federal Program Manager and a State Program Manager. FHWA is improving its management information systems, including the development of micro-

computer software packages that will allow managers to evaluate various enforcement and educational programs at the State and regional level.

FHWA's outreach program, which includes serving as a safety consultant and assigning safety ratings, is helping to promote compliance with motor carrier safety regulations, thus sometimes reducing the need for future enforcement actions. This Agency has developed and published informative brochures that are widely disseminated to many motor carriers that have previously never received FHWA's assistance. Even if Congress decides to strengthen FHWA's enforcement mandate, it will be possible and important to continue most of FHWA's educational activities.

FHWA now has in place a systematic process that could be used to evaluate the safety fitness of most interstate motor carriers during the next ten to twenty years. (This projection assumes no increase in personnel.) This shorter and more efficient safety rating procedure allows FHWA to contact many more carriers than was previously possible. However, this rating activity along with other educational activities consumed 51 percent of the workload time of the FHWA (nonmanagement) regional motor carrier safety staff during FY 1988.

The tradeoff is that time spent on educating the motor carrier industry is time that cannot be spent bringing enforcement actions against motor carriers with known safety problems. During FY 1988 FHWA nonmanagement regional safety staff spent only thirty-five percent of their time on enforcement activities. With respect to motor carrier safety, does Congress want FHWA to be primarily a public safety consultant, primarily an enforcement agency, or some combination of both? What is the appropriate balance of these essential activities?

Those companies that violate the Federal safety regulations and are caught must now deal with an improved FHWA enforcement system. FHWA has implemented a shortened enforcement report procedure, which has reduced the time required for its safety specialists to prepare enforcement cases. FHWA has placed control over its enforcement process in the hands of its Office of Motor Carriers and now uses FHWA's legal staff primarily for complex cases.

These multiple and substantial improvements in the FHWA safety program may not necessarily be directly measurable. It is not feasible to measure the most important impact that FHWA probably has had on motor carrier safety--namely, the prevention of accidents that would likely have occurred without FHWA's education and enforcement efforts.

AREAS OF CONCERN

Several major areas of concern are addressed in the CRS report. These are: the heavy workload of the FHWA; enforcement policies and practices that reduce FHWA's impact on promoting compliance with Federal safety

regulations; the limited, some might say inadequate, attention directed to hazardous materials transportation safety; and shortcomings of FHWA's safety rating process.

Workload and Resource Questions

The major problem facing the FHWA is that its personnel resources are so limited that this Agency can barely scratch the surface of the safety problems found in the interstate motor carrier industry. In order to address properly FHWA's workload situation, it is necessary to have an understanding of the safety problems in the motor carrier industry.

The safety and compliance record of the commercial motor carrier industry is cause for much concern. Although the data are rather rough, it is estimated that this industry is involved in over 500,000 accidents that result in over 5,750 deaths and 160,000 injuries each year.[5] As indicated in tables 2 and 3, this high number of deaths and injuries continues year after year despite increasing Federal funds spent to reduce the number and severity of these accidents. (The exact percentage of these accidents caused by the motoring public versus that caused by commercial drivers/carriers is unknown.) Furthermore, FHWA has assigned more than one-half of the motor carriers that they have reviewed a less than satisfactory safety rating. FHWA has determined that these carriers do not have adequate functioning safety management controls to meet FHWA's safety fitness standard. This means that FHWA has determined that these carriers are not in compliance with one or more major components of either the Federal motor carrier safety or the hazardous materials transportation regulations.

In view of the size of this industry and the high rate of noncompliance of many carriers, the FHWA cannot implement effectively the safety programs that Congress envisioned in recent motor carrier safety laws. For example, given its current resources and policies, it will be 10 years or more before all motor carriers that FHWA has determined to need follow-up auditing can be visited by FHWA personnel. Even with the limited assistance that the States are now providing, FHWA's current staff cannot deal effectively with the expanded and continued growth and rapid turnover in this industry.

A substantial increase in its regional staff, e.g., another 150 safety specialists, would allow FHWA to begin to deal effectively with many of the safety problems in this industry. The workload problems will only increase as FHWA begins to face its new responsibilities resulting from increased pressures for more enforcement of drug regulations, elimination of the

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[5] These deaths or injuries result from accidents involving medium- and heavy-weight vehicles weighing 10,000 pounds or more. While all of the commercial vehicles involved in these accidents were not subject to FHWA's jurisdiction, the vast majority are subject to motor carrier safety regulations either at the Federal or State level.

TABLE 2. FHWA Commercial Motor Carrier Safety Statistics
(based on information from only carriers
subject to FHWA's reporting requirement)

Year	1982	1983	1984	1985	1986*	1987*
Total Accidents	32,277	31,628	36,853	39,273	26,176	28,472
Fatalities	2,456	2,528	2,721	2,646	2,609	2,815
Injuries	26,117	26,692	29,149	28,988	25,092	27,450

* The drop in the total number of accidents reported during 1986 from previous years is probably primarily due to a substantial increase in the minimum or threshold damage amount that when reached triggers one of the requirements to report an accident to FHWA. On January 1, 1986, the reporting threshold for properly damage accidents was increased from $2,000 per accident to $4,200 and was later raised. The definition of "bodily injury" for reporting criteria was also clarified and made more rigorous.

SOURCE: FHWA

*Preliminary data.

TABLE 3. Truck and Bus Fatality Statistics
(covers specified interstate and
intrastate commercial motor vehicles)

Year	1982	1983	1984	1985	1986	1987
Trucks 10,000 lbs. or greater	5,229	5,491	5,640	5,734	5,579	5,591
Buses	206	216	211	211	197	219
Total	5,435	5,707	5,851	5,945	5,776	5,810

* Data in tables 2 and 3 do not account for changes in the number of miles driven or in the number of motor carriers. Year to year comparisons of accident rate data, which do include an exposure factor, are subject to serious question because of differences, in sampling techniques, differences in the type of carrier sampled, and validity of the data collected. On the other hand, table 3 does not depend on industry self-reporting of accidents or on industry-reporting of the number of millions of miles driven. Data in table 3 is from the Fatal Accident Reporting System (FARS), which is generally accepted as the most complete database for fatal accidents.

SOURCE: NHTSA FAR System.

commercial zone exemption, and enforcement of the commercial driver license requirements. New authorities and responsibilities expected under legislation that would reauthorize the Hazardous Materials Transportation Act of 1975 as well as forthcoming truck and bus safety legislation also would add to FHWA's workload. Expanding FHWA's staff by 150 safety specialists with adequate support staff would require the annual expenditure of roughly another $8 million. Competition for Federal transportation safety dollars is already intense.

Increasing FHWA's enforcement staff by itself, however, will not be sufficient to address this workload problem. One practical approach would be to increase also the capabilities of the States to join in a strengthened partnership with the FHWA under the Motor Carrier Safety Assistance Program (MCSAP). FHWA and the States participating in MCSAP are already moving in this direction with increasing numbers of State-conducted safety reviews (SR) and compliance reviews (CR).[6] The extent of their progress is severely restricted by the amount of funds available for MCSAP. Roughly $3 million to $5 million of additional Highway Trust Fund monies beyond those sums now authorized for MCSAP would be needed annually to start funding substantially more vigorous State SR/CR efforts. Some might argue, however, that funds in the Highway Trust Fund should be used to improve our Nation's highway infrastructure, which would also promote highway safety.

The workload issue is directly related to a much broader transportation safety question: Are we spending enough Federal dollars on the enforcement of truck and bus safety regulations relative to what is being spent on the enforcement of commercial aviation and railroad safety regulations? The preliminary analysis presented in our report suggests that the answer is no. When compared with the amount spent on the enforcement of railroad or commercial aviation safety regulations, the amount of funds spent on the enforcement of commercial motor vehicle safety regulations is not in proportion to the number of deaths or injuries that has occurred or is likely to occur. The disparity is wide.

Policies and Authority to Conduct a Vigorous Enforcement Program

The size of this industry is so large and the tasks facing FHWA are so numerous that this Agency has always promoted and relied heavily upon industry's voluntary compliance with the safety regulations. As demonstrated by continuing high rates of trucks taken out-of-service at roadside inspections, increases in the number of deaths and injuries from accidents involving commercial vehicles since 1982, and, most importantly, widespread

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[6] As discussed later, a safety review is a quick check of a motor carrier's safety systems; a compliance review is a much more indepth check for safety violations. Throughout this report the terms "compliance review" and "audit" are used interchangeably.

noncompliance with the Federal motor carrier safety or hazardous materials transportation regulations, this policy, overall, has proven to be rather ineffective. (Some companies, however, are so dedicated to safety that FHWA's program is sometimes unnecessary. The safety standards of these companies far exceed the Federal standards, which set a minimum or floor level.)

FHWA's efforts to educate truck and bus companies are useful when the motor carriers take significant actions to comply with the safety regulations. Many carriers, however, only take the necessary steps to improve their operations when FHWA brings enforcement actions against them. As further discussed below, FHWA's enforcement effort, however, is suffering because FHWA lacks the manpower, authorities, and policies needed to implement a vigorous, effective, and widespread effort.

FHWA is using most of the new enforcement authorities that Congress provided in the Motor Carrier Safety Act of 1984. Under this Act, it is now possible for FHWA to bring civil penalties against specified motor carriers for violations of its safety rules and regulations. (Prior to 1984, the majority of the enforcement actions were required to be handled by a U.S. attorney in U.S. district court under the criminal enforcement procedures of Part II of the Interstate Commerce Act enacted in 1935.) Despite these new enforcement authorities and more than a doubling of FHWA's regional staff, the number of civil penalty enforcement cases recommended for prosecution for alleged violations during FY 1986 and FY 1987 did not significantly increase. (See table 4.) During this period, FHWA's senior field staff had to devote some of its time to the training of the newly hired employees. FHWA did increase the number of such cases by some 16 percent during FY 1988, as compared to FY 1986, but about 200 of the FY 1988 cases have been subsequently dropped, which is more than the number of additional cases recommended for prosecution in FY 1988 over the number recommended in FY 1986. The number of cases prosecuted and closed annually during this period decreased by 14 percent. The average annual amount of fines collected during this period was $1,965,000. As explained below, the size and number of FHWA's penalty actions do not appear to be sending an effective message to many in the motor carrier industry.

One reason that partly explains why FHWA has not substantially increased the number of enforcement cases in proportion to the increase in the number of its staff is its first visit "warning only" practice.[7] Even when serious safety violations may have been documentable during this first contact, FHWA in at least 96 percent of the visits, did not bring an enforcement action against a motor carrier. Given the high degree of noncompliance with the safety regulations and the workload facing FHWA as well as a continuing high number of deaths and injuries resulting from

[7] Rarely is an enforcement action taken as a result of this first visit; the carrier is asked to respond in writing how noncompliance will be corrected.

accidents involving motor carriers, does Congress want FHWA to continue this practice?

FHWA uses its penalty authorities only as a last resort tool to promote compliance. At the final settlement table, FHWA employees often substantially reduce the amounts of civil penalties that are imposed on motor carriers from the amounts originally requested. This practice is allowed under the Motor Carrier Safety Act of 1984. Before a final penalty is determined, a motor carrier is allowed to present evidence of what actions it has taken to improve its level of compliance with the safety regulations since last visited by the FHWA. FHWA employees pay a great deal of attention to these actions. The Motor Carrier Safety Act of 1984 also requires FHWA employees to consider other factors such as prior history of violations and ability to pay in setting penalty amounts. It is frequently rather difficult for FHWA to impose substantial penalties and simultaneously give adequate attention to the various factors that are required to be considered under current law.

TABLE 4. Selected Principal Enforcement Activities Undertaken by FHWA

	Fiscal Year					
	1983	1984	1985	1986	1987	1988
A. Number of Enforcement Cases Recommended for Prosecution Involving Alleged Violations of:						
1. Motor Carrier Safety Regulations (evidence collected)	317	402	627	653	654	850
2. Hazardous Materials Transportation Regulations (evidence collected)	73	65	54	51	28	24
3. Motor Carrier Safety and Hazardous Materials Transportation Regulations (evidence collected)	71	70	58	86	62	45
B. Other Cases Investigated But No Evidence Collected, No Prosecution Pursued	861	831	1,142	1,800	106*	0
C. Total Number of Enforcement Cases Recommended for Prosecution	461	537	739	790	744	919**
D. Number of Enforcement Cases Prosecuted and Closed	461	474	739	529	498	456
E. Amount of Fines Collected	$447,731	$795,805	$788,916	$1,877,300	$2,009,597	$1,998,647

SOURCE: FHWA.

* During 1987, internal change in FHWA policy eliminated this category of enforcement action.

** FHWA has dropped about 200 of these cases.

The flexibility allowed under the civil penalty provisions of the Motor Carrier Safety Act of 1984 has led to penalties imposed on motor carriers that in many cases are so low that they can be considered just part of the costs of doing business. (There are no minimum civil penalty amounts mandated by either the Hazardous Materials Transportation Act of 1975 or the Motor Carrier Safety Act of 1984.) Consequently, it is often less expensive for a motor carrier to pay the penalty than to comply rigorously with the safety regulations or hire a safety director to be able to comply with the safety regulations.

Nevertheless, each year, FHWA completes several enforcement cases that result in substantial penalty amounts for violations of the safety regulations. These actions are extremely important because many carriers otherwise either would not take the FHWA seriously or would not be convinced that they have a responsibility to comply with Federal safety regulations. Substantial penalty actions address both of these carrier shortcomings. However, there are many more cases in which substantial, meaningful, and appropriate penalty assessments are not levied.

Based on a review of several hundred enforcement cases recently brought by FHWA, as well as visits to several motor carriers during FHWA safety and compliance reviews, one fundamental conclusion stands out: Even within the constraints of its current resources and the constraints imposed by the Motor Carrier Safety Act of 1984, FHWA could conduct a more vigorous enforcement program. In order to accomplish this objective, FHWA would have to spend less time educating the motor carrier industry and more time bringing enforcement actions against the numerous motor carriers that FHWA knows are not in compliance with the safety regulations. FHWA would also need to abandon its "warning only" practice and begin to bring more enforcement actions as the result of its first contacts with motor carriers, hazardous materials shippers, and drivers. Improved enforcement authorities, such as higher maximum penalties and minimum penalty amounts could increase the vitality of FHWA's enforcement program. A more vigorous FHWA enforcement posture could encourage the efforts of more carriers to learn about their safety responsibilities and could increase their willingness to comply voluntarily with Federal safety requirements. It should be noted, however, the current unhealthy financial condition of some carriers may not allow them to withstand a more vigorous FHWA enforcement posture.

After it analyzed FHWA's program in 1986, the [DOT] Secretary's Safety Review Task Force predicted that the new penalty provisions of the Motor Carrier Safety Act of 1984 should enable FHWA to make fines and penalties a meaningful deterrent to violating the regulations. As evidenced by a continuing high out-of-service rate for vehicles found during MCSAP inspections, and a high degree of noncompliance noted during both safety and

compliance reviews, it does not appear that this Act is having the impact predicted.[8]

One of the explicit purposes of the Motor Carrier Safety Act of 1984 was to assure increased compliance with FHWA's commercial motor vehicle safety regulations. It is doubtful that FHWA's practices of generally not fining companies on their first visit, significantly lowering penalty amounts at the final settlement table, and giving repeated warnings to companies is helping to achieve the intent of Congress. These practices are detrimental to the overall program and are probably not helping to reduce the number of deaths and injuries associated with commercial motor carrier transportation.

Minimal or Perhaps Inadequate Attention to Hazardous Materials Transportation Safety

There is overwhelming evidence that FHWA has not, and probably could not given its current resources, devote the level of attention to hazardous materials transportation that many would judge necessary. For example, even though there are over 1,200 motor carriers that are currently transporting hazardous materials and that have received an unsatisfactory safety rating from the FHWA, this Agency has not audited some of these motor carriers since the early 1980s; and furthermore, FHWA has not used the authority provided in the Motor Carrier Safety Act of 1984 to shut down any of these motor carriers. [(49 U.S.C.521(b)(5)(A)].[9] (If FHWA had judged the operation of any of these carriers to pose an imminent hazard, this Agency could have shut down these operations.) In addition, as indicated in table 4, the number of enforcement cases recommended for prosecution by FHWA against those charged with violations of the Federal hazardous materials transportation regulations has actually decreased in recent years. Likewise, the amount of penalties collected by this Agency from enforcement cases involving violations of the Federal hazardous materials transportation regulations has decreased in recent years. There is no evidence to suggest that overall hazardous materials compliance in the highway mode has increased.

There are literally thousands of shippers of hazardous materials that FHWA has jurisdiction over that have not been audited in years. Last fiscal year, FHWA safety specialists visited 525 shippers of hazardous materials, however, there are roughly another 25,000 shippers that are under its jurisdiction. Unlike the Federal Railroad Administration, a sister DOT agency with hazardous materials responsibilities, which has 34 hazardous materials inspectors who devote 80 percent of their time to shipper audits, FHWA does not have the staff needed to visit even a minimum number of shippers each

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[8] U.S. Dept. of Transportation. Safety Review Task Force Report on the Federal Highway Administration's Motor Carrier Safety Program, Sept. 1986.

[9] As of Mar. 1989.

year. The recent reorganization of FHWA's hazardous materials program and the establishment of a Hazardous Materials Program Manager in each of FHWA's regions may help improve the focus of these efforts.

Of course, FHWA has many other pressing problems that need to be addressed that result in much greater loss of life and property than does hazardous materials transportation. However, the catastrophic potential of these materials, as well as the public's concern over these shipments, is great and ever present.

Shortcomings of FHWA's Safety Rating Process

Even though the Motor Carrier Safety Act of 1984 did not specifically state that FHWA must provide a safety rating to every interstate motor carrier, DOT has determined that all motor carriers under its jurisdiction must be rated. This has added to the workload problems of FHWA. During FY 1988 FHWA (nonmanagement) regional motor carrier safety personnel spent roughly 40 percent of their time obtaining information needed to determine safety ratings, which prioritizes motor carriers for follow-up compliance reviews.

Because of the high turnover rate of the motor carrier industry and the large number of new entrants, FHWA will be unable to achieve its original 1990 goal of assigning safety ratings to substantially all motor carriers under its jurisdiction. Currently, more than 120,000 motor carriers have not been rated. Even with increased assistance from the States, FHWA, without additional staff, will need to continue to devote much of its workload to the conduct of safety ratings for at least the next ten years if FHWA's current objectives for this program remain in effect. Congress might want to consider whether a safety rating program focused primarily on specific types of carriers and carriers with poor safety and compliance records would be more cost-effective.

A major purpose behind these ratings is to identify those motor carriers most in need of a follow-up compliance review or audit. There are certainly more cost-effective and performance-oriented means to determine auditing priorities. For example, SAFETYNET, the management information system that underpins MCSAP, could be used to determine (now on a State by State basis, later on a nationwide basis), which motor carriers are performing badly during roadside inspections. This information together with accident data compiled by both FHWA and the States could provide a list of motor carriers that need to be audited. This list might keep the FHWA enforcement force busy for at least the next ten years.

There are numerous other shortcomings with FHWA's safety rating process. The most important one is that the accuracy of many of the safety ratings are subject to question. About 44 percent of the motor carriers that are rated receive a conditional safety rating. Some of these carriers lack major safety management systems and could justifiably, under a different

rating system, receive an unsatisfactory safety rating. FHWA has recognized some of the shortcomings of its rating process and currently plans to increase the percentage of carriers rated unsatisfactory.

Another major limitation is that FHWA uses only three categories of safety ratings: satisfactory, conditional, and unsatisfactory. The public, insurance companies, and shippers cannot find out whether a specific carrier was a step away from being rated unsatisfactory or satisfactory. Improved information about a carriers safety fitness would likely allow the forces of the marketplace to help increase compliance with the safety regulations. The Committee might want to consider requiring FHWA to provide a quantitative safety rating to all carriers subject to DOT's jurisdiction. The validity and preciseness of FHWA's current rating system would have to be improved if a quantitative rating was mandated. The Committee also might consider requiring FHWA to release to all interested parties a listing of those parts of the regulations on which a carrier failed to achieve compliance. As specified in the legislation, carriers would have due process remedies to appeal ratings that they believe were inaccurately determined.

OPTIONS INTENDED TO IMPROVE FHWA EDUCATION AND ENFORCEMENT PROGRAM

To create a more effective, vigorous Federal motor carrier safety program, three fundamental changes might be considered by Congress: 1) amendments to the Motor Carrier Safety Act of 1984 to provide for minimum penalty amounts for violations of the Federal motor carrier safety regulations and to raise the maximum penalty levels allowed; 2) the addition of at least 150 new safety specialists to FHWA's regional staff; and 3) increased funding for the MCSAP to increase the number of safety and compliance reviews conducted by State enforcement officials, thus reducing some of the workload on the FHWA.

In addition Congress may also wish to consider various options discussed in the CRS report, such as those to:

1. prohibit the transportation of certain hazardous materials by motor carriers that have an unsatisfactory safety rating;

2. require FHWA to take either an enforcement action or issue a citation with a civil penalty for any serious documentable violation of the Federal motor carrier safety or hazardous materials transportation regulations;

3. require FHWA to spend more of its time on enforcement than educational activities;

4. require FHWA to make use of its existing authority to shut down the operation of motor carriers that are judged to be imminently hazardous;

5. require FHWA to publish and widely distribute the names of all motor carriers that have received an unsatisfactory safety rating from the FHWA, but only after due process is afforded the carrier;

6. require FHWA to provide a quantitative or a more informative safety rating to motor carriers;

7. require all motor carriers subject to the jurisdiction of FHWA to register with the FHWA;

8. require FHWA to submit a bi-annual report to the Congress outlining the major accomplishments, resources, and problems facing the FHWA;

9. increase the grade level of senior, qualified, non-supervisory FHWA safety specialists working in the field from the GS-11 level to at least the GS-12 level and provide high cost-of-living differentials for FHWA employees assigned to certain areas;

10. require FHWA to focus its safety rating program on a specific group of designated carriers or carriers performing poorly on the road;

11. require identification of all motor carriers' vehicles;

12. create a separate Motor Carrier Safety Administration in the DOT, removing truck and bus safety responsibilities from the FHWA.

As shown in table 5, the financial costs to the Federal Government or the Highway Trust Fund (in the case of the option pertaining to MCSAP) of improving FHWA's program are relatively modest. Companies and drivers failing to comply with specified Federal safety regulations, however, could be financially hurt if some of these options were implemented.

Of course, there is always the option of allowing the FHWA to continue to improve its own program at its own pace. Especially during the last three years, FHWA has demonstrated its ability to improve substantially its education and enforcement program with little congressional direction. Perhaps, continued and occasional congressional oversight of FHWA's implementation of its motor carrier safety responsibilities is all that is needed. However, reliance solely on this option could prove risky, especially if FHWA cannot or does not address the major enforcement and workload problems that have been identified in this report. Of course, any changes to strengthen FHWA's program could affect the economic competitiveness of this industry.

TABLE 5. Estimated Costs of Options Intended to Improve the FHWA Program

Policy Options	Rough Estimate of Annual Costs to FHWA*
1. Increase staff of FHWA by 150 safety specialists	$8 million annually
2. Increase appropriations to MCSAP to increase the number of safety and compliance reviews conducted by State enforcement officers	$3 million to $5 million annually
3. Increase grade level of FHWA Safety Specialists	$73,000 annually for first year, later years would cost
Provide high cost-of-living differential for some FHWA regional employees	$75,000 annually
4. Establish minimum civil penalty levels and increase current maximum amount for violations of the Federal motor carrier safety regulations	none, additional funds would be generated for Federal treasury
5. Require FHWA to bring an enforcement action or issue a citation with a civil penalty for serious violation of the FMCSR	none, funds would be generated to Federal treasury
6. Prohibit carriers with an unsatisfactory rating from transporting certain hazardous materials	minimal one-time regulatory cost
7. Require FHWA to publish periodically the names of motor carriers receiving an unsatisfactory rating	$2,000 annually

* These estimates are based on many sources, including discussions with the FHWA and our own analyses.

TABLE 5. Estimated Costs of Options Intended to Improve the FHWA Program–cont'd.

Policy Options	Rough Estimate of Annual Costs to FHWA
8. Require FHWA to assign a quantitative or more informative safety rating to motor carriers	cost depends on type of information released; numeric system may be slightly more expensive than simply releasing a list of those parts of the regulations on which a motor carrier had achieved a less than satisfactory level of compliance as determined by FHWA
9. Require FHWA to conduct a focused safety review program	none
10. Improve the identification of motor carriers and their vehicles	minimal one-time regulatory cost
11. Require annual registration of the motor carrier industry	$100,000 first year and $50,000 annually thereafter
12. Require GAO to submit a report to Congress on FHWA's handling of enforcement cases	$150,000
13. Direct FHWA to spend more time on enforcement than education	none, additional funds would be generated to Federal treasury from penalties collected
14. Require submittal of bi-annual report on FHWA activities to Congress	$100,000 every two years
15. Create a separate Motor Carrier Safety Administration	a minimum of $2.8 million annually,* FHWA estimates higher costs would be encountered.
16. Make use of existing authorities to shut down imminently hazardous motor carriers	minimal to none

* $14 million spread over the next five years, (CBO estimate in Senate Report 100-264).

Questions for Dr. Paul Rothberg, CRS

From Senator Hollings

1. In preparing your reports on the "Motor Carrier Safety Assistance Program (MCSAP)" and on "Motor Carrier Safety and the Federal Highway Administration's Education and Enforcement Efforts," did you discover ways in which the MCSAP program can be used to assist in reducing the backlog in the Federal education and enforcement program?

State enforcement officers supported by MCSAP funds are conducting several activities that help the Federal Highway Administration (FHWA) conduct its education and enforcement activities designed to promote motor carrier safety. As discussed below, these various State activities, when consistent with Federal policies and procedures, are useful to FHWA in reducing the huge backlog of motor carrier safety work facing FHWA.

Approximately 30 States participating in the Motor Carrier Safety Assistance Program (MCSAP) are conducting safety reviews that are used by the FHWA to assign a safety fitness rating to interstate motor carriers. The conduct of these reviews by State officers directly reduces the FHWA's backlog. About 20 MCSAP States are conducting various forms of safety audits at carrier facilities or other forms of "non-roadside" enforcement-oriented activities. These State activities generally do not follow the exact civil penalty procedures and paperwork documentation requirements that FHWA follows in its compliance review/enforcement activity. FHWA, however, is slowly trying to increase the uniformity of these various State enforcement activities and make these activities consistent with the Federal enforcement

approach. When this occurs, these enforcement-oriented activities conducted by MCSAP States will begin to reduce more effectively the FHWA compliance review/enforcement backlog.

2. How would you compare the level of enforcement actions and spending for motor carrier enforcement with that of other administrations within DOT?

a. Level of enforcement actions.

Each of the DOT modal administration's enforcement policies and procedures vary and are governed by different statutes. Accordingly, cross-modal comparisons are difficult at best. Nevertheless, based on an assessment of the vigor of the recent enforcement strategies and activities of various DOT modal administrations, at least one DOT modal administration is more aggressive in its enforcement philosophy and approach than is FHWA. In terms of the average level of enforcement productivity of the typical investigator and willingness to pursue an enforcement action especially on the first contact with a regulated entity, the hazardous materials enforcement division of the Research and Special Programs Administration (RSPA) is more aggressive than is FHWA's education and enforcement effort.[1]

During the late 1970s and early 1980s, various members of the Senate Committee on Commerce, Science and Transportation urged RSPA to increase the size of its penalties and to enforce strenuously the Hazardous Materials Transportation Act and regulations issued pursuant to this Act. During this period, the enforcement record of the hazardous materials division of RSPA

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[1] For purposes of this analysis, RSPA is viewed as an intermodal administration.

began to increase. During the last year or so, especially since intensified congressional attention began to focus on its enforcement activities, FHWA has begun to increase the vigor of its enforcement program. Based on efforts to date, it appears that FHWA's FY 1989 enforcement program will be substantially more productive--in terms of number of enforcement cases and total amount of penalties collected--than any previous year. However, there is no guarantee that this comparatively high level of enforcement effort will continue beyond FY 1989 in the absence of sustained congressional interest or a change in FHWA's enforcement mandate or policies.

b. Comparison of the amount of Federal spending for enforcement of the motor carrier safety regulations relative to other selected DOT modes.

In a recent CRS report we compared the amount of Federal monies that is devoted to the enforcement of the Federal motor carrier safety regulations relative to that spent on the enforcement of commercial aviation and railroad safety regulations.

TABLE 1. Number and Amount of Federally Supported Inspectors and Amount of Federal Funds for Inspection/Enforcement for Commercial Rail, Air and Motor Carrier Transportation as Compared to the Number of Deaths and Injuries

	Commercial motor vehicles	Railroad	Commercial aviation
Number of Federal inspectors*	303	325	1,380 [1]
Number of full- and part-time State inspectors partially supported with Federal funds.	800 full-time 2,100 part-time	0 0	0 0
Estimated average annual # of deaths	5,750	1,100 [2]	275 [3]
Estimated average annual # of injuries	160,000	27,000	250
Rough approximate cost of Federal program (FY88 cost).	$61 million of which $14 million for Federal inspectors and $47 million for State inspectors.	$22 million	$67 million

* May include management personnel.

[1] There are a total of approximately 2875 FAA inspectors and related professional personnel. For purposes of this analysis, it has been estimated that approximately 48 percent of their activities are focused on commercial aviation. This number includes approximately 700 staff working out of FAA's national and regional headquarters who conduct some safety-related activities but are not full-time inspectors.

[2] Roughly 90 percent or more of these deaths are at grade crossing accidents or involve trespassers.

[3] The number of airline deaths varies substantially year to year. This number approximates the average yearly death rate over the last 13 years (1975-87), during which time there were several major airline tragedies. In most years there were usually less than 10 reported deaths associated with commercial aviation. This includes only passenger and crew deaths during U.S. fleet flights.

We found that:

> In terms of the amount of Federal money spent on conducting safety inspections and promoting compliance with the safety regulations, DOT spends more on the enforcement of commercial air safety regulations than it does on the enforcement of regulations pertaining to commercial truck and bus safety. When Federal funding levels are considered in light of the number of deaths and injuries that occur in the various modes of transportation, truck and bus safety receives considerably less funds than do either commercial aviation and rail safety. For example, on average in any given year during the last 13 years (1975-1987), there have been roughly more than 21 times as many deaths resulting from accidents involving trucks and buses combined than there are from commercial aviation accidents; however, more Federal funds are spent on enforcing commercial aviation safety regulations. It is interesting to note that there are thousands of FAA inspectors for hundreds of air carriers, but there are only hundreds of FHWA inspectors for 180,000 interstate motor carriers. Likewise, the enforcement of commercial motor vehicle safety regulations is underfunded when compared to the amount of Federal funds spent on the enforcement of Federal railroad safety regulations, when the number of relative deaths and injuries is considered.[2]

3. What do you consider to be the pros and cons of prohibiting carriers with an unsatisfactory safety rating from carrying hazardous materials? Should this prohibition be restricted to placarded loads?

A. Pro and con arguments.

FHWA's computer information system indicates that as of March 1989 there were at least some 1200 motor carriers with an unsatisfactory safety rating that were transporting hazardous materials. Those arguing in support

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[2] U.S. Congress. Senate. Committee on Commerce, Science and Transportation. Motor Carrier Safety and the Federal Highway Administration's Education and Enforcement Efforts: Options Intended to Improve an Overloaded Program. Committee Print. 101st Cong., 1st Sess., Washington, U.S. Govt. Print. Off., Apr. 1989. p. 77.

of prohibiting these carriers from transporting such hazardous materials until they receive at least a conditional safety rating can point out:

a. Motor carriers that receive an unsatisfactory safety rating, according to FHWA, do not have "adequate functioning safety management control systems" in place to ensure compliance with FHWA's safety fitness standard [and] which has resulted in specified occurrences.[3] Proponents of this prohibition can argue that without adequate control systems these carriers cannot assure the safe transportation of such hazardous materials as bombs, flammable gases, and poisonous or toxic materials.

b. Because of the catastrophic potential posed by some hazardous materials, transporters of such materials should be held to a higher level of safety than transporters of commodities such as bananas.

c. The very threat of such a prohibition would serve as a major incentive for hazardous materials carriers to comply with the Federal motor carrier safety regulations and the Federal hazardous materials transportation regulations, and, perhaps even, to have fewer preventable accidents.

Those opposed to this option or those who would want to limit the use of this prohibition could point out that:

a. The severity of this prohibition suggests the need for FHWA to be cautious before assigning an unsatisfactory safety rating to a hazardous materials carrier. Before any of these carriers receives an unsatisfactory rating, many in industry would argue that it would be important to allow an

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[3] See 49 CFR 385.3 as set forth in Federal Register. Dec. 19, 1988: 50968.

opportunity to appeal such a rating and to present counterarguments supported by appropriate documentation.

If this provision becomes law, it can be argued that a mechanism to ensure the timely review of any motor carrier who receives an unsatisfactory safety rating should be established. (Such a provision is set forth in S. 819 as reported by the full Committee.)

b. FHWA points out that its safety rating system was not designed to be used as a means of determining whether a motor carrier should be prohibited from transporting hazardous materials. Some minor adjustments or modification in the current rating process, e.g., a more indepth review for carriers of hazardous materials, might be necessary if this prohibition were implemented into law. On the other hand, it can be argued that if FHWA spends three for four hours with a motor carrier reviewing its safety management control systems, then it should be able to assess whether a particular carrier should be allowed to transport hazardous materials.

c. Those opposed to this prohibition could well argue that there is no assurance that it would significantly reduce the number of accidents involving hazardous materials carriers but could increase some transportation costs.

B. Limitations

With respect to the question of whether this prohibition should be restricted to those carriers transporting loads of hazardous materials requiring placards, it is important to consider several factors. In our testimony we presented the option that would give the Secretary of Transportation the authority to extend this prohibition to carriers of other loads of hazardous

materials. This discretionary authority would be designed to add an additional level of safety and would be intended to deal with a limitation of the DOT placarding requirements. On the other hand, the current proposed prohibition as set forth in S. 819 would pertain to a large percentage of carriers of hazardous materials.

4. OTA has testified that accident rates for large, heavy trucks increased about 15 percent between 1982 and 1986, despite a 10 percent drop in the number of tractors in use nationally. Given the number of significant safety programs that have been put into place as a result of Congressional mandates over this decade, to what do you attribute this increase in accidents?

There are many factors that might explain this increase in the number of accidents reported. These include:

a. Knowledge of the requirement to report specified accidents is gradually increasing;

b. the reliability of accident data collected by some of the States has been increasing;

c. the driving public may be causing more truck accidents; or

d. carriers are having more accidents.

The fact that the total number of accidents involving commercial motor vehicles has risen during the last few years does not suggest that Federal truck safety programs and initiatives are not promoting safety. As explained below, the probable beneficial effects of the major congressional initiatives in truck safety are, in one case, difficult to measure, and, in other cases, have not yet been realized.

Although Congress mandated several motor carrier safety initiatives during the 1980s, the 1982, 1984, and the 1986 statutes are of particular importance. Each of these various measures are discussed below.

The Surface Transportation Assistance Act of 1982 provided the legislative foundation for MCSAP. Although State inspectors supported with funds from this program have removed hundreds of thousands of unsafe vehicles and drivers from our Nation's highways, it is impossible to quantify the exact number of accidents that have been avoided as a result of this important safety program. The CRS report on MCSAP concluded: " MCSAP, very likely, has reduced the number of death and injury causing accidents that might have otherwise been caused by unsafe trucks and buses. However, because of many other factors that also affect safety, direct measurement of the effects of MCSAP is extremely difficult and subject to serious question because of intervening or spurious variables."[4],[5]

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[4] U.S. Congress. Senate. Committee on Commerce, Science and Transportation. Motor Carrier Safety Assistance Program (MCSAP): Options Intended to Improve a Generally Successful and Cooperative Federal/State Partnership Promoting Truck and Bus Safety. Committee Print 100-109. 100th Cong., 2d Sess., Washington, U.S. Govt. Print. Off., June 1988. p. 2.

[5] Most of the Federal dollars spent on truck safety programs are used for MCSAP. Although MCSAP is an extremely important program, most of the MCSAP funds are frequently spent on treating a symptom rather than an underlying problem in truck safety, which may be a carrier's safety management of its trucking operations. MCSAP focuses primarily on the individual driver or commercial motor vehicle that is not in compliance with the safety regulations out on the highway. In many cases, this noncompliance is a symptom of other, or perhaps larger, problems of noncompliance that need to be addressed through safety and compliance reviews at the carrier's principal place of business. In order to improve the safety performance of an entire company, it may well be necessary to do more than just conduct roadside inspections.

CRS-9

The Motor Carrier Safety Act of 1984 authorized a system of civil penalties to be imposed by the Secretary of Transportation for violations of the Federal motor carrier safety regulations. As concluded in a recent CRS report,

> One of the explicit purposes of the Motor Carrier Safety Act of 1984 was to assure increased compliance with FHWA's commercial motor vehicle safety regulations. It is doubtful that FHWA's practices of generally not fining companies on their first visit, significantly lowering penalty amounts at the final settlement table, and giving repeated warnings to companies is helping to achieve the intent of Congress. These practices are detrimental to the overall program and are probably not helping to reduce the number of deaths and injuries associated with commercial motor carrier transportation. Some might argue, however, that the current unhealthy financial condition of some carriers could not withstand a more vigorous FHWA enforcement posture.[6]

Thus, even if its impact could be measured, it does not appear that the 1984 Act as implemented by the FHWA through FY 1988 has provided an enforcement environment that could lead to a significant decrease in the total number of accidents.

The Commercial Motor Carrier Safety Act of 1986, which requires each specified driver to have a single commercial motor vehicle license meeting specified Federal standards, has not yet been fully implemented and will not be until around April 1992 at the earliest. Accordingly, it would be premature to ascertain the impacts of the 1986 Act on motor carrier safety.

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[6] U.S. Congress. Senate. Committee on Commerce, Science and Transportation. Motor Carrier Safety and the Federal Highway Administration's Education and Enforcement Efforts: Options Intended to Improve an Overloaded Program. Committee Print. 101st Cong., 1st Sess., Washington, U.S. Govt. Print. Off., Apr. 1989. p. 7.

CRS-10

Question for Dr. Paul Rothberg, CRS

from Senator Danforth

1. Your report indicates that when FHWA visits a motor carrier, it stresses education over enforcement. Can you give some examples of cases in which FHWA could have brought an enforcement action but instead opted for education?

The recent CRS report on FHWA's education and enforcement program for motor carriers states that during its first visit with a motor carrier that FHWA stresses educational assistance over enforcement actions. In fact, FHWA only rarely pursues an enforcement action as a result of its first visit with a motor carrier for violations of regulations other than those dealing with insurance-related requirements. Our analysis found that: "FHWA safety specialists have conducted thousands of safety or compliance reviews that have revealed serious alleged violations of the Federal motor carrier safety regulations, but no enforcement action was taken against these carriers."[7] More specific case data are cited in the CRS report.

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[7] Ibid., p. 100.

Senator DANFORTH. Thank you, Dr. Rothberg.
Mr. Andelin.

STATEMENT OF JOHN ANDELIN, ASSISTANT DIRECTOR, SCIENCE, INFORMATION AND NATIONAL RESOURCES DIVISION, OFFICE OF TECHNOLOGY ASSESSMENT

Mr. ANDELIN. Thank you, Mr. Chairman. I am sure we are all sorry that Ms. Page could not be with us today, but she will be able to respond to future Committee needs and to answer any questions as may be appropriate.

Even in Ms. Page's absence, we are pleased that OTA was asked to participate and to share some of our results with the Subcommittee.

Our own motor carrier safety report—this is the summary, this is the report, called *Gearing Up For Safety*—we released last September. It was requested by the House Committee on Public Works and Transportation, and endorsed by this Committee. Our testimony today will be based on findings from this report and on our continuing information gathering on this important issue.

For the report, we were asked to assess the impact of economic deregulation on truck safety. OTA concluded that while the economic status of an individual carrier has an identifiable effect on operations and equipment condition, no clear link can be established between changes in economic regulation and changes in overall motor carrier safety levels.

Moreover, the legislation that has been passed over the last 8 years has significantly extended Federal oversight. Figure 1 in your testimony shows, for example, the increase in the number of State inspections.

The MCSAP program, requirements for annual vehicle inspections, and the commercial driver's license requirement are all important steps in improving safety. But just as CRS has found, we too found several areas where improvement, perhaps in our case I should say greater emphasis, is needed. I will focus on two of these today—vehicle size and the need for better driver training. I will also touch on issues of jurisdiction and coordination.

First let me set the scene. Trucks provide essential economic services, transporting food and goods from producer to market—truly essential. Yet many automobile drivers find large, heavy trucks rather intimidating partners on our crowded highways. There are indeed some reasons for the motorists' apprehensions.

First heavy trucks are over-represented in truck accidents. The accident rates for these trucks have increased faster than those for light trucks, and faster than vehicle miles traveled. (see figures 1) We were pleased this afternoon to hear Mr. Landis say that these increases have moderated somewhat in the past year or two.

Second, tractor-trailer accidents kill thousands of people a year—5,000 to 6,000—4 out of 5 of whom are occupants of the other vehicle, usually a car. It is important to note here that the initiating cause for those accidents is roughly shared between the truck drivers and the drivers of the other vehicles. Nonetheless, 4 out of 5 of those killed in those accidents are not the truck drivers themselves.

Third, today's trucks are larger and heavier and often travel on roads designed for automobiles and lighter vehicles. Traffic levels exceed highway capacities in many urban areas.

Let me pursue this last point first.

The Surface Transportation Act of 1982, which increased fuel taxes to help fund highway rehabilitation and safety programs, also permitted longer, wider vehicles for Interstate highways and some other regional roads. Larger trailers increase productivity and so new trailer sales have moved rapidly to the use of these larger sizes. Figure 2 of our testimony shows that. Figure 3 also shows some information on the use of these larger sizes.

Unfortunately, many of the off ramps on Interstates and the passing and sight distances on major highways are inadequate for vehicles of these sizes. Policymakers need to keep in mind the discrepancies between today's roadways and these larger vehicles as discussions proceed on the difficult issue of truck access off the presently approved network.

Now a word about driver training. Our analysis shows that among the most common factors associated with heavy vehicle accidents are a) speed too fast for conditions and b) the level of driver training.

Speed too fast for conditions is a product of the truck's size and operating characteristics, the driver's ability and judgment, and perhaps the size and configuration of the roadway.

Note that it does not mean exceeding a posted speed limit. It means speed too fast for conditions—and that requires driver judgment.

We also found that human error causes over 60 percent of heavy vehicle accidents, underlining the fact that good driver performance is crucial to highway safety.

Research has shown that focused, specific classroom and over-the-road training can increase a heavy truck driver's skill and his or her awareness of the appropriate speeds for different roadway conditions. But surveys indicate that many heavy truck drivers never receive any formal training.

The Federal test requirement for the commercial vehicle driver's license, even though it includes a road test, does not appear to be an adequate substitute for a training requirement. Unfortunately, the schools offering the services to train drivers do not fall under any Federal agency supervision. The result is a spectrum of training courses ranging from excellent to terrible.

Wanting to assure that the graduates they hired were of top quality, carriers and truck manufacturers joined in developing criteria for school curricula. These efforts have culminated in the establishment and initial success of the Professional Truck Driving Institute of America, from whom you will hear tomorrow.

A major finding of OTA's research was that national standards for training schools would provide the public with assurance that graduates of truck driving schools had in fact had adequate behind-the-wheel training. Congress may well wish to consider requiring DOT to develop such standards, building upon the work begun by industry.

Related to all aspects of safety are some institutional questions. The many governmental entities that share responsibility for

motor carrier safety clearly complicate industry's operations and stymie many efforts to resolve safety problems. At the Federal level, the ICC and three U.S. Department of Transportation agencies set standards and enforce different carrier regulations. To the best of our judgment, they do not work closely on safety issues.

In Congress a similar variety of committees share jurisdiction. And there are numerous State officials—governors, State legislators, departments of transportation, highways, police, public safety and so on.

In our testimony today we raise the need for government and industry to take a comprehensive, systematic approach. Three elements of that approach are as follows: human performance, including training standards and a training requirement for drivers. Also needed are studies of fatigue and attention to management practices such as hiring, scheduling, drug and alcohol testing.

Second, technologies to improve safety in vehicle operations, including vehicle design and equipment requirements such as the brake technology we discussed earlier. NHTSA could be encouraged to take a more active lead in assuring adoption of these important safety items.

But in addition to these vehicle technologies we want to bring attention to highway structure and design, and to the interaction of the large vehicles with inadequately sized roadways.

Finally, on perhaps a hopeful note, we mention the need to integrate governmental activities across jurisdictional levels.

In closing, we recognize that a broad national program to improve motor carrier safety may bring somewhat higher direct transportation costs. We note, however, that some of these will be repaid to industry by reduced costs of accidents, both direct and indirect (say through insurance), and will be repaid for the public by reduction in the social costs of highway accidents.

Thank you, Mr. Chairman.

[The statement and questions and answers follow:]

STATEMENT OF EDITH B. PAGE, SENIOR ANALYST, OFFICE OF TECHNOLOGY ASSESSMENT

In September 1988, the Office of Technology Assessment's report, Gearing Up for Safety: Motor Carrier Safety in a Competitive Environment, was released. The study was requested by the House Committee on Public Works and Transportation and endorsed by this Committee; my testimony today will be based on findings from it and on our continued information gathering on this important issue.

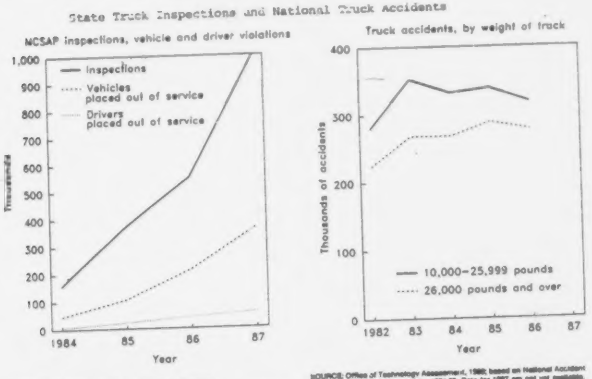
Despite the essential economic services that trucks provide in transporting food and goods from producer to market, many automobile drivers in the United States find large, heavy trucks intimidating partners on crowded highways. OTA examined national accident statistics for heavy trucks -- those 26,000 pounds and over, which include most tractor-trailer combinations -- and found good reasons for motorists' apprehensions:

* Heavy trucks are overrepresented in truck accidents. Accident rates for these trucks increased about 15 percent between 1982 and 1986, while rates for light trucks increased roughly 12 percent. (See figure 1.) This increase in accidents involving heavy trucks is slightly greater than the increase in the distance they traveled and occurred despite a 10 percent drop in the number of tractors in use nationally.

* Tractor-trailer accidents kill roughly 5,000 people a year, a number that has held constant for the past decade. Four out of five of those killed are occupants of the other vehicle, usually a car.

FIGURE 1

State Truck Inspections and National Truck Accidents



KEY: NCSAP = Motor Carrier Safety Assistance Program.

SOURCE: U.S. Congress, Senate Committee on Commerce, Science, and Transportation, *Motor Carrier Safety Assistance Program: Options Intended to Improve a Generally Successful and Cooperative Federal/State Partnership Promoting Truck and Bus Safety* (Washington, DC: U.S. Government Printing Office, 1988), table 3, p. 18.

SOURCE: Office of Technology Assessment, 1988; based on National Accident Sampling System data, 1982-86. Data for 1987 are not yet available.

- Traffic levels exceed highway capacity in many urban areas.

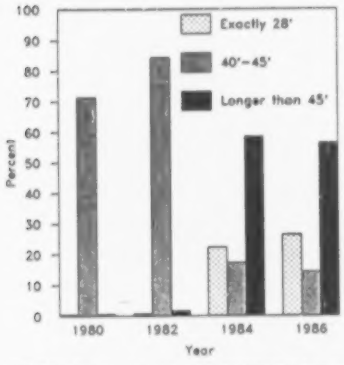
Today's trucks are larger and heavier than those of a decade ago and often must travel on roads designed for automobiles. Even many sections of the Interstate system that were designed for large vehicles were constructed using a design vehicle smaller in size than the 48-foot trailers or twin trailers that are now the industry standard.

The Surface Transportation Assistance Act of 1982, which increased fuel taxes to help fund highway rehabilitation and safety programs, also permitted longer and wider vehicles on Interstate highways and some other regional roads. Industry moved quickly to capitalize on this method of increasing productivity, and by 1986, over 80 percent of all new trailers sold were either 28 feet long (for use in double trailer configuration) or 48 feet, a rapid reversal of earlier trailer sales patterns (see figure 2). Moreover, shippers and carriers have pressed States vigorously to permit even larger trailers, which are especially useful for carrying light weight, high bulk products (such as paper napkins or disposable diapers). Bowing to this pressure, many States now permit 53-foot trailers or long double and even triple trailers (see figure 3), although many of the off ramps on their Interstates and the passing and sight distances on major highways are inadequate for vehicles of these sizes. The frequency of tractor-trailer accidents on highway interchanges and on rural State highways is one outgrowth of the discrepancies between roadway and vehicle sizes. Policy makers will want to keep in mind the safety tradeoffs associated with longer, wider vehicles as discussions proceed on the difficult issue of truck access off the approved network.

In 1984, mindful of the potential safety impact of new legislation, Congress asked the National Highway Traffic Safety Administration (NHTSA) to examine the causes of heavy truck accidents. In their study, released in January 1987, NHTSA identified a high center of gravity, large turning radii, and brake compatibility problems for tractor-trailers as major aggravating factors inhibiting safe handling of large combination vehicles.

FIGURE 2

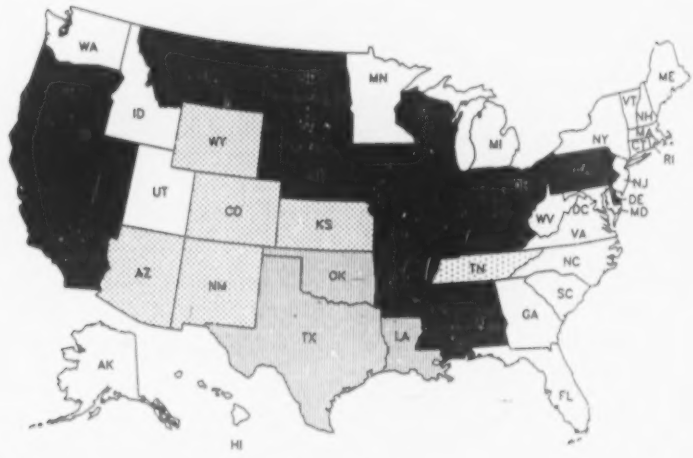
Trailer Sizes of New Trailer Purchases



SOURCE: Truck Trailer Manufacturers Association, "Van Trailer Report," various years.

FIGURE 3

Legal Trailer Length by State



NOTE: Semitrailers in Wisconsin, Indiana, and California must conform to a State specified king-pin-to-rearmost axle distance to operate without a permit.
SOURCE: Office of Technology Assessment, 1988, based on the 53 *Federal Register* 10 (Jan. 19, 1988).

OTA's own analysis last year showed that the three most common factors associated with heavy vehicle accidents are: 1) speed too fast for conditions; 2) level of driver training; and 3) age of the vehicle. "Speed too fast for conditions" is a direct product of the size and operating characteristics of a truck, the driver's ability and judgment, and the size and configuration of the roadway; does not necessarily mean exceeding a posted speed limit.

Human error causes over 60 percent of heavy vehicle accidents. The difficulties cited above related to operating a heavy vehicle under today's traffic conditions illustrate how crucial good driver performance is to highway safety. OTA's research showed that focused, specific classroom and over-the-road training can increase a heavy truck driver's skill and awareness of the appropriate speeds for different roadway conditions. No Federal training requirement is in place, however, and surveys indicate that many heavy-truck drivers never receive any formal training. The Federal test requirement, which includes a road test, for the commercial vehicle driver's license is not an adequate substitute for a training requirement. Unfortunately, the plethora of schools offering their services to train would-be professional drivers do not fall under any Federal agency's supervision. The result is a spectrum of training courses ranging from excellent to terrible.

Recognizing that this uneven training could not provide them with assurance that the graduates they hired were of top quality, carriers and truck manufacturers joined in developing criteria for school curricula. These efforts have culminated in the establishment and initial success of the Professional Truck Driving Institute of America (PTDIA), from whom you will hear tomorrow. A major finding of OTA's research was that national standards for training schools would provide the public with assurance that graduates of truck driving schools had in fact had adequate behind-the-wheel training. Congress may wish to consider requiring the Department of Transportation to develop such standards, building upon the work begun by industry, so as to ensure that schools meet the standards in order to remain in business. Federal standards will be necessary to ensure uniformly high quality training.

California, the first state to administer the commercial vehicle driver's license test, is seeing failure rates of close to 50 percent among drivers applying for a commercial vehicle license. However, over 90 percent of the candidates in California that have been through high quality training courses are passing the test. This indicates that the sooner Federal standards are established, the better for highway safety.

Other findings from OTA's research show that truck operations often do not allow adequate rest for drivers, and research has shown significant increases in driving errors and decreases in driver alertness due to fatigue, even within driving times well under the current hours-of-service limits. Recognizing the importance of such factors, some trucking companies have purchased new, more comfortable (and more fuel efficient) equipment, put in place their own supplemental training programs, and revised driver schedules to permit adequate rest. Many have seen their accident levels drop accordingly. However, companies that are strapped for cash and independent drivers often do not have the financial resources necessary for such safety investments.

Many governmental entities share responsibility for motor carrier safety, complicating industry operations and stymieing efforts to resolve safety problems. At the Federal level, the Interstate Commerce Commission, and three U.S. Department of Transportation agencies set standards and enforce different carrier regulations; these units do not work closely on safety issues. In Congress, a similar variety of committees share jurisdiction. Numerous State officials, such as Governors, State legislators, and Departments of Transportation, Highways, Police, and Public Safety, as well as regulatory bodies, also set requirements.

OTA concluded that to achieve maximum safety benefits, government and industry must take a comprehensive, systematic approach. Action is needed on three fronts:

* Human performance, including training standards and a training requirement for drivers. Government and industry could cooperate in studies of fatigue and hours of service, and follow up by implementing joint programs to address these difficult issues. Increased industry attention to management practices such as hiring, scheduling, and drug and alcohol testing is also needed.

* **Technologies to improve safety in vehicle operations**, including vehicle design and equipment requirements, such as tractor-trailer brake compatibility, antilock brakes, and vehicle visibility enhancements. NHTSA could be encouraged to take a more active lead in ensuring adoption of these important safety items. Also, increased attention by government and all segments of industry to highway structure and design and the interaction of large vehicles with inadequately sized roadways is essential in determining policies that will improve safety rather than increase risk. This could include enlarging off ramps where possible, although expenditures for such large scale reconstruction will not be feasible in the near term.

* **Integrating governmental activities across all jurisdictional levels.** Although time consuming and difficult to achieve, better integration can increase uniformity of regulations, enforcement activities, and penalties, reduce burdens on industry, and improve carrier compliance.

OTA recognizes that a broad national program to improve motor carrier safety may bring somewhat higher direct transportation costs. However, these could be more than outweighed for industry by reduced accident costs and, for the public, by a reduction in the social costs of highway accidents, which recently were estimated to reach $65 billion by 1990.

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JOHN H. GIBBONS
DIRECTOR

August 1, 1989

The Honorable J. James Exxon
Chairman
Subcommittee on Surface Transportation
Senate Committee on Commerce,
Science, and Transportation
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

It is a pleasure to respond to your questions related to OTA's testimony on motor carrier safety. Truck safety issues affect every motorist, making improved safety a top priority.

Question 1:

In your testimony, you briefly discussed the issues of length and width of heavy tractor-trailers. What, if any, correlation do you believe these have to the high incidence of accidents involving heavy trucks?

Response:

Issues associated with the length and width of heavy tractor-trailers are extremely controversial. Longer and wider trailers carry more of the product being shipped, and thus increase productivity and efficiency accordingly. However, as OTA's testimony stated, most highways and interstate offramps, as well as virtually all urban streets, are not large enough to accommodate 48-foot or larger trailers traveling at posted speeds. If the driver of a large, heavy tractor-trailer is not alert and cognizant of the need to slow well below the indicated safe speed on a sharp turn or tight ramp, the physical forces on the turning truck are easily sufficient to cause an accident. Moreover, the types of abrupt steering movements often necessary on crowded urban or suburban freeways greatly increase the dangers from "rear amplification" (swaying of the rear trailer of a double or the rear of a very long trailer), and loss of driver control. OTA concluded that the discrepancies between roadway size and the dimensions of the large tractor-trailers currently in use are indeed a major contributor to the number of heavy truck accidents. Further information may be found in *Gearing Up for Safety*, pages 110-114.

Question 2:

Are you aware of whether there is a lower incidence of accidents involving heavy trucks in States where there are more stringent State driver training requirements?

Response:

It is not possible to ascertain from existing databases whether there is a lower incidence of accidents involving heavy trucks in States with stringent driver training requirements. In fact, no State has previously had training requirements, and many States required only an automobile driver's

license for truckers until the 1986 Federal legislation requiring the commercial vehicle drivers license. OTA's finding that lack of driver training is the second most frequent factor in heavy truck accidents was the result of our analysis of the National Accident Sampling System (NASS), a national database that does not provide good information by State. The National Highway Traffic Safety Administration (NHTSA), the agency that keeps the NASS database, and the Federal Highway Administration are each revising the ways that they collect data on motor carrier accidents, and we hope that better information will be available in the future.

Question 3:

In the OTA report, *Gearing Up for Safety*, you cite the National Highway Transportation Safety Administration's test which concluded that using relatively inexpensive reflective markings on the rear end of trailers could reduce accidents by fifteen percent. Do you feel that the methodology of the test was sufficient to ensure the accuracy of these results?

Response:

OTA is aware that questions have been raised about the methodology of NHTSA's tests of reflective markings to enhance night visibility of trucks. However, it is clear from virtually every safety study, that the poor visibility of trucks at night is a substantial contributing factor in accidents. OTA concludes that a significant increase in safety seems certain if such markings are required, and that the precise magnitude of the safety benefit is not a major concern.

Question 4:

Does OTA believe that establishing standards for driver training requires legislative action?

Response:

The answer to the question of whether legislation will be required to establish standards for truck driver training depends on actions taken by the Office of Motor Carriers (OMC) in the Federal Highway Administration. OMC has the authority to establish standards and has done much of the basic research that could lead to standards, although the agency has chosen not to take this step to date. OTA concluded that good driver training is extremely important to national motor carrier safety and that the spectrum of training programs now available ranges from very good to grossly inadequate. Some national guidelines or standards are thus needed both for consumer protection and for highway safety. The standards must be established by an impartial group that does not have a proprietary interest in the standards, and this implies leadership in the effort by OMC. If OMC does not undertake the task, legislative action seems the only recourse.

I hope these answers clarify and amplify OTA's written testimony. Please do not hesitate to ask for further information on these important issues, if you should need it.

Sincerely,

Edith B. Page

Edith B. Page
Transportation Project Director

Senator DANFORTH. Dr. Rothberg, Mr. Andelin, thank you very much for your very helpful testimony.

Have either of you looked at the problem of drug and alcohol use in trucking and specifically at the possibilities of drug testing legislation or, in this bill, the possibility of providing special penalties, double penalties, for the sale of narcotics within a certain distance from truck stops?

Do either of you have anything particular to share on this issue?

Mr. ANDELIN. Mr. Chairman, let me mention one bit of information having to do with testing the victims of the most severe truck accidents—the involvement of drugs and alcohol is high.

With regard to most comments beyond our testimony and our report, I would much prefer to defer that to Edith Page so that tomorrow we would have the same answer as I might give today.

Senator DANFORTH. You do not have anything to add, Dr. Rothberg.

Well, I am told that last year during two sting operations at California truck stops more than 180 persons, including 40 truck drivers, were arrested for selling or purchasing illegal narcotics. I mean, clearly the human error factor—you mentioned something about human error, I know, Mr. Andelin, is clearly a very significant factor in truck accidents.

And this would seem to me to be an important area to focus on. Dr. Rothberg?

Dr. ROTHBERG. In our report on MCSAP to this Committee one of the options that we outlined for possible consideration when you reauthorize the MCSAP program after fiscal year 1991 is to consider changing slightly some of the initial thinking that went into MCSAP. Perhaps expanding MCSAP into other areas of specific concern to truck safety, such as truck speeding and increasing the role of MCSAP in drug enforcement, might be considered.

Federal Highway did have a drug enforcement effort in MCSAP last year, somewhat continuing this year, but it was a very small effort where they did use the State highway patrolmen to do drug searches and additional drug enforcement work. But perhaps this is an option that could to be thought about when the whole question of reauthorizing MCSAP comes up again a few years from now.

Senator DANFORTH. Thank you.

Mr. Andelin, why don't you think driver testing is sufficient? Back in whenever it was that we passed the last legislation, 1986, I guess, we believed at that time that uniform licensing requirements, plus both written and on-the-road testing, testing in the vehicle that the driver was to drive or truck, not a car, was going to be a major event.

Why do you feel that in addition to testing the driver a training program is important?

Mr. ANDELIN. It is clear that testing is a step in the right direction. The experience in California was that approximately half of those that went for the commercial driver's test failed. But the experience in California is also that, of those who had had a high quality training program with sufficient on-the-road experience, the passage rate was greater than 90 percent.

So clearly if you wish to rely on the tests alone, you will have a very high failure rate. If you can back that up with training requirements, there would be greater assurance that the test did not miss something, and that the test results were based on performance over a training program.

Senator DANFORTH. We have been considering and the Committee staff have been looking at the possibility of some sort of training standards.

Do either of you understand why the United States should lag behind Europe in establishing standards for anti-lock brakes? Is there something unique about our roads or our trucks that makes the anti-lock brake standards less realistic in this country?

Dr. ROTHBERG. I have not studied that issue.

Senator DANFORTH. Do you have any view, Mr. Andelin?

Mr. ANDELIN. If we can provide something in writing, I would be pleased to do that.

Senator DANFORTH. The concern is that the braking power of automobiles is much better than it used to be. Anti-lock brakes are available on cars, and if cars can stop quickly and trucks cannot, trucks will just run over the cars. Is that a reasonable concern or is that not a reasonable concern, do you think?

Mr. ANDELIN. It is a reasonable concern. Certainly stopping distances are clearly different.

Also related to the truck-auto accidents though, is the way in which the automobile drivers drive. Cutting in front can lead to a chain of events, ending with an accident. But clearly the stopping distances are very different.

Senator DANFORTH. Do either of you have a view about the efficacy of Congress setting deadlines for rulemaking? I know that Mr. Landis is of the view that deadlines are not a good idea. But do you think that Congress should be establishing fixed deadlines for safety rulemakings?

Dr. ROTHBERG. I have had the opportunity to observe Federal Highway's implementation of safety laws during the last 17 years while I have been employed at CRS. I think partly with the impetus from this Committee Congress is getting much better response.

Congress is getting much better response out of DOT in almost all areas of safety by putting in specific timetables and specific deadlines. And these are measures that Congress can watch with its oversight function and see progress made.

I can remember 17 years or so ago when there were almost no deadlines and there was tremendous administrative discretionary authority. And, Senator, you have expressed your concern at many hearings that I have attended as to the glacial speed of DOT in implementing some of the provisions that were specified in previous Acts.

Senator DANFORTH. Well, that is absolutely right. The Motor Carrier Safety Act of 1984 gave the Federal Highway Administration the power to suspend the operation of a motor carrier that posed an imminent hazard to safety. Now we are five years after that legislation and nothing has been even drawn up.

Dr. ROTHBERG. I would suggest that the oversight interest of this Committee commissioning CRS to do some analysis in this area

served as a catalyst to encourage Federal Highway to do something about this 5-year lag time.

Senator DANFORTH. Dr. Rothberg and Mr. Andelin, thank you very much for being here.

The next witness is Mr. Steve Hermann, Administrator, Motor Carrier Department of Public Safety, Phoenix, Arizona.

Mr. Hermann, thank you very much for being here.

STATEMENT OF STEPHEN L. HERMANN, MOTOR CARRIER ADMINISTRATOR, HIGHWAY PATROL BUREAU, ARIZONA DEPARTMENT OF PUBLIC SAFETY

Mr. HERMANN. Thank you, Senator.

Senator and members of the Subcommittee, I am Steve Hermann, Motor Carrier Administrator with the Highway Patrol Bureau, Arizona Department of Public Safety. I am also the Chairman of the Hazardous Materials Committee of the Commercial Vehicle Safety Alliance, CVSA.

I would like to speak to you on behalf of the tens of thousands of highway patrolmen, State troopers, and police officers who work every day with the practical problems of hazardous materials and motor carrier enforcement. I have previously submitted prepared testimony and ask that it be accepted for the record.

Senator DANFORTH. Thank you, it will be included.

Mr. HERMANN. Let me first congratulate the Committee on one of the most effective Federal programs now in existence, the Motor Carrier Safety Assistance Program, MCSAP. I can report to you that your creation of MCSAP has resulted in lives saved and thousands of unsafe trucks being removed from our highways. Simply put, MCSAP works.

My own agency would not have motor carrier investigators checking trucks at our border ports of entry, our road and terminal audit work forces would be substantially reduced, were it not for MCSAP funds.

Further, we have seen the nurturing of closer FHWA and State cooperation, a better enforcement atmosphere, and more efficient and technically accurate inspections due to our working hand in hand with the highly qualified personnel of the Office of Motor Carriers.

We need your assistance not only in continuing MCSAP funding but increasing it, with an eye towards fostering innovative new enforcement ideas out in the field. Just in my State alone we are developing, with MCSAP discretionary funds, a high risk driver program which has the ability to detect and measure fatigue in truck drivers. We need additional funds around the country to seek out other effective ideas.

I would next like to express my support of the Danforth-Exon 1989 motor carrier safety bill, S. 819.

Senator DANFORTH. We call it Exon-Danforth because they are in the majority, but in the good old days it would have been Danforth-Exon.

Mr. HERMANN. I had a 50/50 chance.

I would like to note, however, that just as MCSAP works and can be improved, from my perspective this draft legislation can be improved also.

The prohibition against unsatisfactorily rated carriers transporting hazardous materials is sound. However, the categories of prohibited hazardous materials need to be left to the Secretary and not be arbitrarily set.

Also, FHWA needs to make readily available the unsatisfactory carrier ratings, both for State enforcement use and industry or shipper utilization. To facilitate hazardous materials enforcement, the ability to integrate specific sections violated by carriers with the ratings is important for enforcement prioritization.

In discussing violation certification and verification, there are really two types—serious out of service violations, and other less critical non-compliance. I agree that my counterparts and I have been negligent in not developing a system of verifying correction of out of service violations. I support some form of verification of correction.

To make the bill's provisions for a certification program work, we will need more resources at the State level. To make effective use of the returned inspection documents, additional manpower will be required for the States to implement this follow-up for less critical violations.

Although routine agency policy may typically preclude enforcement action on the first visit to a carrier's terminal, responsible officials need to admit that some serious and flagrant violations cry out for immediate corrective action. The problem then becomes defining exactly what constitutes a serious safety violation.

Falsification of driver status reports or log books, carriers requiring drivers to violate hours of service limitations, and patterns of serious maintenance neglect indicate a need for immediate enforcement action on a carrier who is creating a clear danger to the public safety.

There are many benefits to be gained from S. 819. I feel that my comments calling for modifications can be resolved at the staff level by working with State and Federal officials.

I am also the national chairman of the Cooperative Hazardous Materials Enforcement Development Program, COHMED, associated with the Research and Special Programs Administration. A key similarity between COHMED and MCSAP is that they both involve a working Federal-State partnership. COHMED exists solely to foster the more efficient enforcement of the hazardous material transportation regulations. I would like to ensure that this process continues.

In my 25-year career of law enforcement and hazardous materials regulation, I have never been associated with a more productive partnership involving varying levels of government than through COHMED. However, current statutes do not recognize this important Federal, State and local team. The Secretary of Transportation should be tasked to make this partnership continue to work in just the same way that MCSAP has proven to be so beneficial.

The Hazardous Materials Transportation Act reauthorization would be an idea vehicle to spell out the need for continuing the

technical policy and information assistance from RSPA to the State and local jurisdictions.

I would like to thank you for this opportunity to present our State perspective. I wish I had appeared in uniform today to help dramatize the fact that there are tens of thousands of us in the States who work every day with motor carrier and hazardous materials enforcement and we are vitally concerned with your efforts, and we desire to work with you to help improve transportation safety.

Thank you, Senator.

[The statement follows:]

STATEMENT OF STEPHEN L. HERMANN, MOTOR CARRIER ADMINISTRATOR, HIGHWAY PATROL BUREAU, ARIZONA DEPARTMENT OF PUBLIC SAFETY

Mr. Chairman, and Members of the Subcommittee: I am Steve Hermann, and in addition to my motor carrier and hazardous materials enforcement position with the Arizona Department of Public Safety, I am the National Chairman of the Cooperative Hazardous Materials Enforcement Development (COHMED) Program, associated with Research and Special Programs Administration, United States Department of Transportation. I am also the Chairman of the Hazardous Materials Committee of the Commercial Vehicle Safety Alliance (CVSA). In these capacities, I would like to speak to you as a state enforcement official who works every day with the practical problems of hazardous materials and motor carrier safety.

Let me first thank you for this opportunity to submit comments dealing with S. ____, **MOTOR CARRIER SAFETY ACT OF 1989.** I will address my remarks to specific sections of this legislation, which I reviewed in its 10:30 a.m. Staff Working Draft form, dated April 13, 1989. I will preface my remarks with comments on what I feel is one of the most effective federal programs now in existence, the Motor Carrier Safety Assistance Program (MCSAP), and close with comparisons between MCSAP and the COHMED organization I represent, which is dedicated to the enforcement of the hazardous materials transportation regulations.

I. MCSAP

My position within my agency is 50% funded by Motor Carrier Safety Assistance Program funds, so I can be expected to have a positive bias towards this remarkably effective program. However, since I was a Hazardous Materials Specialist prior to the creation of MCSAP, I have seen motor carrier and hazardous materials enforcement before and after this federal/state partnership. I can report that your creation of MCSAP in the Surface Transportation Assistance Act of 1982 has resulted in lives saved, and thousands of unsafe trucks being removed from our highways.

Simply put, MCSAP works. If it weren't for MCSAP, my own agency would not have Motor Carrier Investigators checking trucks at our border Ports of Entry, and our road and terminal audit work forces would be substantially reduced. Further, we have been able to provide newer and safer vehicles for our investigators, additional truck inspection equipment, and updated training for our officers because of the additional dollars available to us through MCSAP.

There has also been a synergistic benefit realized through our working relationship with the FHWA Office of Motor Carriers, in that our mutual efforts have resulted in more efficient enforcement for all concerned. The professional expertise and experience of the FHWA field staff, coupled with the technical assistance available has benefited us, while our manpower and inspection results have been effectively utilized to assist FHWA efforts in a variety of ways.

The truly gratifying aspect of MCSAP has been the latitude granted to the states to identify and pursue their own priorities within the guidelines of the program. There has been support, encouragement and interest expressed by our federal counterparts, and a continuing willingness to help us with our enforcement programs. Seldom have I been involved in a program where the local and regional officials have been so supportive, and willing to work with us to help realize our objectives.

I would therefore ask that whatever direction your future deliberations may take, you leave untouched the core of the proven MCSAP program, and at least continue to support it at existing funding levels. I would like to note one final factor which I feel supports consideration of expanded funding levels for the MCSAP program. I think we need to fund research into innovative new methods of improving commercial motor vehicle safety. I know there is work to be done here, since I developed one program we are now conducting in Arizona with MCSAP discretionary funds.

Our High Risk Driver project holds the promise of developing a field test which will detect and measure fatigue in drivers, which is generally accepted as the actual cause of around 70% of the commercial motor vehicle accidents on the road today. We have our initial results in, and our test devices do appear to be capable of letting us know when a driver is too fatigued to be behind the wheel. This is an exciting prospect, since at a recent symposium involving experts in driver fatigue from around the world, this project was called "the only game in town." We'll be working with FHWA officials to further develop this project over the coming year, and I hope we'll have exciting news to report back to you soon.

I've got another project I'd like to get funding for, since I think it's possible to develop a truck inspection facility utilizing state-of-the-art electronics and sophisticated test and measuring instruments where we could do a several times more efficient job of inspecting trucks in less than half the time. But unless we have the funds available to support research and development of new ideas, we'll continue doing business in the same old way, and getting the same results. I'm sure there are other state officials out there with ideas they'd like to try also, so I am requesting your support in funding MCSAP at higher levels, and perhaps earmarking certain funds for research and development.

II. S.____, MOTOR CARRIER SAFETY ACT OF 1989
(April 13, 1989, 10:30 a.m. Staff Working Draft)

SECTION 2:

(a) Safety Ratings Availability: To more effectively do our job, we need ready access to the FHWA Carrier Safety Ratings. Although I'm told that they can be obtained through a simple phone call, I would like to see the data available through either SAFETYNET, or some other suitable periodic hard copy means we can devise with FHWA. By utilizing SAFETYNET today, we can check the specific sections of the regulations which a carrier has violated; so by combining these two sources, we would know the specific hazardous materials problems a carrier was experiencing, and could do a better job of road enforcement.

(b) UNSATISFACTORY Carriers Prohibited From Transporting Hazardous Materials Requiring Placarding [Section 204 (1) (B) or (C) of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503 (1)(B) or (C))] If I understand this section correctly, this prohibition against operating vehicles requiring placarding may be an oversimplified and restrictive definition of the regulated community in this instance. Latitude should be granted to the Secretary of Transportation to further determine what category of materials could be included in this operating restriction. The Secretary already possesses the broad discretion to determine what constitutes a hazardous material in the first place, and this would thus seem a logical extension of that regulatory latitude. Clearly a load of 990 pounds of blasting agents, which does not require placarding, is just as dangerous as 1,010 pounds which does require placards.

SECTION 7:

(a) Nine Months to Issue Final Rule Ensuring Safety Violation Corrections. I am afraid that nine months is less time than many state officials would take to try and lynch FHWA authorities, if they attempted to carry out this unreasonably short time schedule for implementing what is a controversial set of requirements, as noted in the following subsections.

(b)(1) Random Reinspection of Out-of-Service Vehicles and Operators. I support this proposal, which will hold my feet to the fire, and force me and my colleagues to develop a smarter way of doing business. We have frankly been remiss in not developing some method of verifying that these serious Out-of-Service violations, which can lead to accidents, are corrected. Although I have heard figures of 8%-to-10% for noncompliance with Out-of-Service orders, I suspect that further study would determine the figure is significantly higher. In my state we sternly caution the driver that if he busts our Out-of-Service notice, and we catch him, we'll book him and forcefully inject him into the criminal justice system, and impound his truck. Having had my own bluff called more than once, I know that this non-system leaves a lot to be desired. In this area, my fellow state enforcement officers need to admit that some of us have been guilty of inefficient management, support this proposal, find efficient ways to do it, and get on with business.

(b)(2) Accountability For Correcting All Safety Violations. I am told that some states have developed methods of accomplishing such an auditing process. I would welcome the opportunity to study their successes, since the whole proposal looks unworkable. It would appear to divert precious man-hours away from actually inspecting trucks, and require administering a seemingly burdensome and complex procedure. I would instead encourage the Congress to require the Secretary to, in consort with the states, develop several alternative methods of accomplishing the intent of this provision, then undertake studies to determine their effectiveness. Until the workability of such a program is proven, I cannot support such a concept, which in some states, due to the requirement for penalties, could well require legislation.

(b)(3) State Penalties For Failure to Correct Any Safety Violations. This provision requires further study. If for no other reason, the potential need for enacting state legislation makes the nine month time frame almost totally unachievable. The citation and administrative follow-up requirements to make such a program effective may well not find support in many jurisdictions, due to their complexity.

SECTION 8. Serious Safety Violation Mandatory Enforcement Action.

Although routine agency policy may typically preclude enforcement actions on the first visit to a carrier's terminal, responsible officials need to admit that some serious and flagrant violations cry out for immediate corrective action. The problem then becomes one of defining exactly what constitutes a "serious safety violation." While the objective of voluntary compliance is laudable, in some instances it becomes immediately apparent that compliance simply will not be achieved until rapid and effective enforcement action is taken. In these times of insufficient manpower, we cannot live with a policy which precludes enforcement actions on a first visit, since this is what we typically engage in during our routine road enforcement every day.

I can recall the frustrations of some of my field inspectors when faced with a policy which precluded "first visit" enforcement action. To state that trucking company managers are unaware of their safety problems begs the issue, since they know far better than we the condition of their equipment. The unscrupulous minority in the industry frequently make conscious decisions deferring or ignoring required maintenance, or purposefully requiring drivers to drive far beyond legal hours of service. The solution we found was to address each instance on a case-by-case basis. We could then determine if the benefits of an educational first visit, to obtain voluntary compliance, were overcome by a compelling need to take immediate enforcement action on a carrier who was in such substantial noncompliance as to create a clear danger to the public safety.

Realizing that administrators and field enforcement officers will have different views of the workability of defining exactly what "action level" will trigger an enforcement process during an initial review or inspection, this matter appears to require further study. In some jurisdictions, mandatory enforcement actions could so quickly overload the ability of inspectors to conduct their normal functions that a rigid, mandatory requirement seems undesirable. Additional staff work appears necessary to allow state and federal officials to work together, perhaps through the forum offered by the Commercial Vehicle Safety Alliance, to determine a satisfactory resolution of this potentially emotional issue. The latitude must exist to take enforcement action on a first visit, but making it mandatory requires further examination.

SUMMARY: I have not commented on a number of provisions of this bill, since they are beyond my expertise. As noted above, I do feel that there are many benefits to be gained from the provisions of this proposed legislation, and that my comments calling for modifications can be resolved at the staff level, by working with state and federal officials.

III. COHMED AND MCSAP

The key similarity in the Cooperative Hazardous Materials Enforcement Development Program (COHMED) of the Research and Special Programs Administration, and the Motor Carrier Safety Assistance Program (MCSAP) of the Federal Highway Administration, is that they involve a working federal/state partnership. It has further been my experience over the years with the Commercial Vehicle Safety Alliance (CVSA), that a federal/state partnership works. Whenever in the past we allowed our differences to overcome our common concerns, we suffered both at the federal and state level. A clear example was in the years-ago conflict between the Out-of-Service Criteria developed by FHWA, and that proposed by CVSA.

Until both sides sat down and worked out their differences, a great deal of time and effort was wasted in needless bickering, and the public safety suffered. Now, FHWA and CVSA cooperate closely, and in conjunction with RSPA input, have produced Out-of-Service Criteria acceptable to all parties. The successes of MCSAP and CVSA have become a commonly shared source of pride among the federal and state officials involved in this mutual process.

In closing, I would like to briefly direct your attention to the Cooperative Hazardous Materials Enforcement Development Program (COHMED), and ask your assistance in formalizing its existence.

COHMED fosters the more efficient enforcement of the hazardous materials transportation regulations. Since its inception a little over three years ago, RSPA managers and staff have worked closely with state officials, and achieved a number of mutual goals. Hazardous materials enforcement training modules have been improved, new training developed, the regulation interpretation process has been streamlined, and a number of state recommendations have not been shelved or studied to death, but simply put into effect by RSPA.

I would like to insure that this process continues. In my 25 year career of law enforcement and hazardous materials regulation, I have never been associated with a more productive partnership involving various levels of government than through my work with COHMED.

In just the same way that MCSAP works, COHMED works. It works because state and federal officials are functioning together to achieve common goals, and mutually supporting each other. Long ago, far-sighted federal officials realized that they could multiply their agency's effectiveness many times over, by taking advantage of the large field force of state enforcement officers, and utilizing them out on the road. We represent hundreds of times the manpower that a federal agency can devote to motor carrier or hazardous materials enforcement. I would like for you to take legislative steps to insure that this "effectiveness-multiplier" continues in effect within the Research and Special Programs Administration.

I request that you include language in the Hazardous Materials Transportation Act reauthorization to formalize the existence of the working federal/state relationship represented by the successful COHMED program. The Secretary of Transportation should be tasked to make this partnership continue to work, in just the same way that MCSAP has proven so effective. From a state perspective, I have seen substantial gains achieved through the work we have done with RSPA officials, and I want it to continue.

Thank you for the opportunity to bring before you the concerns of a state official, who works every day out in the field, enforcing the motor carrier safety and hazardous materials transportation regulations. I hope my comments have been helpful in supporting our mutual dedication to improving the public welfare through safer motor carrier and hazardous materials transportation.

Senator DANFORTH. Mr. Hermann, thank you very much for your testimony and also for your good work.

My understanding is that a lot of trucks driving around are just not in good repair. Safety condition is not satisfactory. They continue to operate. Sometimes when they are taken out of service they are not actually fixed. How do we handle this situation?

Mr. HERMANN. We do not have a good answer, but several months ago my staff members and I discussed some better options than our current non-system. At least in our State we tell the driver that we will arrest you and book you if you bust our out of service notice.

Well, we talked for several hours and we produced maybe half a dozen recommendations. We could enter the trailer license plate in an on-line National Criminal Information Center type of local computer for random accessing through mobile display terminals hundreds of miles away within our State. We could come up with agreements with California and New Mexico for both Interstate 10 and Interstate 40, with similar local computer links.

We talked about the idea of using some invisible fluorescent paint of a different color which would be visible under black light and we could just put a dot on, say, the left front wheel which would be picked up at the opposite border inspection port.

We could require telephoning from a fixed location direct line to check on the number of hours that we had parked a driver at a specific location.

Currently when we take a bunch of guys to one location and work a detail for several days we will cut 1-inch reflective squares out of tape that we will put on the righthand corner of a bumper so that we do not keep stopping the same trucks over and over in the local traffic and also mark that with a black magic marker. A diagonal stripe means we put the driver out of service, an X means we put the vehicle out of service. That way other road officers can stop and check for any out of service violations.

Finally, we could do the rather obvious step of selected reinspection by an officer after correction, before the truck is allowed to continue. This is clearly a good management practice that we should require to close the loop and deliver a message to the unscrupulous operators that we are serious about this business.

Senator DANFORTH. Well, now cannot most of these things be done at the State level? We do not have to legislate this, do we?

Mr. HERMANN. Yes, sir, easily. We have just been too busy. We have not thought about it.

Senator DANFORTH. You are part of an association? In other words, you meet with your counterparts in other States?

Mr. HERMANN. Yes, sir, frequently. I have a meeting coming up next week in Nashville with the Commercial Vehicle Safety Alliance.

Senator DANFORTH. Would this be the kind of thing that you could take up at such a meeting?

Mr. HERMANN. Yes, sir, and I intend to.

Senator DANFORTH. Tell me about the drug problem. Is this a serious matter or is this—I mean, we have drugs in our society. How much of a safety problem would you attribute to either drugs or alcohol?

Mr. HERMANN. I do not know the answer, Senator. I have concentrated my career on hazardous materials enforcement and I have no expertise in the drug area.

Senator DANFORTH. How about the qualification of drivers for hazardous material? Do you think we are doing enough to assure that the drivers are qualified to transport hazardous material?

Mr. HERMANN. No, Senator, we are not doing enough. We need to do a lot more. Driver error, in my opinion, accounts for about 75 percent, primarily attributable to fatigue, of all commercial vehicle accidents. We need to do more in this area.

Senator DANFORTH. Any ideas?

Mr. HERMANN. I would have to think about it. I do not know.

Senator DANFORTH. Do you see any reason why—I mean, I am sure that the anti-lock brake issue is a big one—is it something that we should just sort of continue to study for several years to come and gather reports and so on, or do you think that the time has come to begin catching up with the Europeans?

Mr. HERMANN. Although I do not have specific expertise in the mechanical brake area, it seems like as a society we tend to over-study things. Let us try it and get on with it.

Senator DANFORTH. Anything else you would like to add?

Mr. HERMANN. Thank you for the opportunity to let a State guy talk to you, sir.

Senator DANFORTH. Thank you very much, Mr. Hermann.

This concludes the hearing.

[Whereupon, at 3:25 p.m., the Subcommittee adjourned.]

MOTOR CARRIER SAFETY

WEDNESDAY, APRIL 19, 1989

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room SR-253, Russell Senate Office Building, Hon. J. James Exon (chairman of the subcommittee) presiding.

Senator EXON. Good morning.

The subcommittee will please come to order.

OPENING STATEMENT BY SENATOR EXON

Senator EXON. This morning we begin the second day of hearings on the implementation of the Motor Carrier Safety Act of 1984, the Commercial Motor Vehicle Safety Act of 1986, and the Truck and Bus Safety and Regulatory Reform Act of 1988, as well as new proposals to improve motor carrier safety.

We will also hear testimony on S. 819, the Motor Carrier Safety Act of 1989, legislation I introduced just yesterday with Senators Danforth, Kasten, and Adams.

Yesterday, we heard from DOT, OTA, CRS, and the Arizona Department of Public Safety.

Joining us today will be witnesses speaking on behalf of the truck and bus industries, labor, public interest, safety and insurance groups, and groups affiliated with truck driver training schools.

We will begin with an individual who has been before us on many occasions, and I welcome him once again, welcome, Tom Donohue. It is always good to see you. I guess everyone knows that you are the President of the American Trucking Associations.

Also we want to give a welcome to Mr. Gene Bergoffen, the Executive Vice President of the National Private Truck Council.

I would ask if any of my colleagues have any opening statements. If not, we will proceed with the testimony.

Senator Burns.

Senator BURNS. Charge on, Mr. Chairman.

Senator EXON. Thank you, Senator.

Tom Donohue, welcome, and we will start with you.

STATEMENT OF THOMAS J. DONOHUE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS, INC.

Mr. DONOHUE. Thank you very much, Senator. Good morning.

As is the case usually, we will put a formal statement in the record.

Senator EXON. Without objection, it will be a part of the record.

Mr. DONOHUE. Thank you very much, Mr. Chairman.

As you know, the trucking industry remains committed to safety, not just on the Nation's highways, but in every segment of the industry, from the driver and the equipment on the road, to its maintenance and the front office as well.

I do not believe it is necessary to sit before you and list the leadership role that the trucking industry has taken in every piece of major safety legislation that has evolved since 1984. Clearly, we are going to continue our role because the Committee's goals and ATA's goals are the same: To improve highway safety for all Americans.

In our comments we have addressed a number of issues which need congressional action, plus others which need some fine tuning by the Congress and the Department of Transportation.

Perhaps the most important new issue deals with the safety of international and domestic container movements on U.S. highways. The number of shipments in containers handled by motor carriers has more than doubled in the last decade, to 3 million a year, and will continue to do so at an accelerated rate in the future. Literally, millions of these containers are overloaded and are likely to be in violation of Federal or State highway safety requirements.

These overweight containers constitute a severe threat to highway safety by decreasing stopping ability, reducing vehicle control, and causing stress on all mechanical components of the vehicle, including the brakes, steering mechanism, tires and wheels, and, of course, the chassis itself.

In the past, this problem was viewed only as a truck weight enforcement problem, not a highway safety or international competitiveness issue.

Contributing to the problem is the fact that the motor carrier does not control any of the factors which cause the problem, from overloading the containers to its routine maintenance.

To complicate this problem, the FHWA cannot address the issue directly because it does not have the regulatory authority to issue regulations which make the shipper responsible for overweight containers. U.S. truckers have no control over shippers whether they are in Peoria, Illinois, or Rotterdam.

FHWA does not have the authority to require shippers to indicate the actual weight of each container to be transported. They cannot require ports to install scales, most of which already have had them to determine or confirm container weights prior to allowing them on the highway. They cannot require the owners of chassis to provide inspected, properly maintained, and appropriate running gear. And they cannot eliminate steamship rates based on volume, and not actual cargo weight.

Mr. Chairman, I urge you and your Committee to schedule early hearings to determine the dimensions of this problem, and then to consider legislative and administrative remedies that will stop the transportation of these unsafe containers.

The second point I would like to quickly address is the matter of drugs.

Drug abuse has become a black mark on American society. We need only to turn on the television each evening to understand that chilling fact.

Statistics show that one in seven Americans has a problem with drugs. It would be foolish for me, therefore, to say that drugs and those who abuse them are not present in the trucking industry, even though the accident statistics show that alcohol and drugs are not as big a problem with truck drivers, as they are with those who drive cars.

However, we are committed to removing those who use drugs and those who sell drugs from this industry. We cannot tolerate drugs in any amount or any form.

It is for that reason that we support the provisions in your bill, of increasing the penalties for those who violate our laws in, on, or near truck stop facilities. We are working with the truck stop operators to remove drugs from their businesses and we support the most stringent penalties.

I would like to say a word about driver training. Though not a part of this proposed legislation, we are committed to working with the Committee to formulate legislation which will continue to upgrade the professionalism of commercial motor vehicle driver training. We believe industry and government have unique roles in this process.

Industry should provide the design standards by which training needs and objectives are developed. Government should set the performance standards by which the design standards are measured.

Performance standards currently exist in the regulations that you required to be adopted in the Commercial Drivers License Legislation. Drivers must take a written test; drivers must take a driving test; and drivers must take a walk around the truck to inspect it.

In California, half of those who originally took the test, failed. Now that the training and education is improving, that number had decreased to one-third.

I would like to compliment the Professional Truck Driver Institute of America [PTDIA], which has begun the process of developing the design standards. We believe Congress should support this initiative of the industry—we have spent 4 years and almost $1 million of private money on it already—and work with us as we establish those voluntary standards which we hope all truck driving schools will conform to.

Let me end my comments by speaking about the Motor Carrier Assistance Program.

It has perhaps had more impact on improving truck safety than any other initiative taken in this decade.

Because of the work of this Committee, FHWA has gone from inspecting 50,000 trucks a year to over 1 million trucks a year, in just 3 years. In doing that, MCSAP has placed a substantial number of them out of service. Carriers, drivers, and shippers now know that the odds are against them if they want to operate unsafe vehicles, exceed the hours of service regulations, or improperly load cargo.

However, the program does have its problems. Too many States do not honor the inspection of the neighboring State, although both

receive funding and both use the same inspection standards and federally sponsored training programs.

Too many States issue fines which have no relationship to the severity of the offense, and, as a result, the program is in danger of giving people a sense that it does not have common direction. Carriers can receive a $10 fine or a $1,000 fine for the same thing, depending upon the state.

The problem can be solved with fine tuning and more commitment from FHWA to insure uniformity. Mr. Chairman, if we put a few more dollars into this program, we will get tremendous results.

Finally, we would like to compliment the Committee and the staff for the work that has gone into the 1984, 1986, and 1988 Safety Acts, and to say that we have seen measurable and reasonable progress. If we will keep the pressure on to make sure that the provisions which were passed in the previous legislation are fully implemented, we will see a significant increase in safety and a reduction in accidents on our highways.

Thank you very much, Mr. Chairman.

[The statement follows:]

STATEMENT OF THOMAS J. DONOHUE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN TRUCKING ASSOCIATIONS

INTRODUCTION AND EXECUTIVE SUMMARY

I am Thomas J. Donohue, President and Chief Executive Officer of the American Trucking Associations. I welcome the opportunity to address the safety initiatives contained in the "Commercial Motor Vehicle Safety Act of 1989" and to discuss the progress made to date on implementing the previous landmark legislation initiated by this Committee to improve truck safety.

These comments are submitted on behalf of ATA, the national trade association of the trucking industry and its 4,000 members. Through its 51 affiliated trucking associations located in every state and the District of Columbia, 10 affiliated conferences, and several thousand individual motor carriers, ATA represents every type and class of motor carrier in the country: for-hire and private; regulated and exempt.

The trucking industry is composed of more than 260,000 American firms, and accounts for 77 percent of all freight transportation revenues in this country. The trucking industry employs 7.4 million Americans and generates annual revenues in excess of $225 billion dollars.

The public and the American economy depend heavily on truck transportation to provide the goods, services, and materials that move America. Everyone in the trucking industry is working to run safe operations.

Yet, 90% of the motor carriers in this country operate less than six vehicles and do not consider themselves as part of the trucking industry. Their primary business is that of manufacturing, construction, or of providing a service. The operation of trucks is only a small part of their business.

This diversity makes it difficult to keep the industry informed about safety laws and regulations and about the knowledge, skills, and attitudes that are so important to truck safety. To overcome these difficulties, there must be strong federal leadership and continuing programs by industry and government to improve compliance with regulations; shape the skill, knowledge, and attitudes of drivers; and assure that vehicles are built and maintained for maximum safety.

ATA has initiated numerous programs for the trucking industry to help attain these objectives, including:

- Training programs for drivers, supervisors, and driving schools;
- Management programs to assure safe vehicles, safe drivers, and safe operations;
- Research to identify accident experience; and
- Cooperative programs to improve vehicle performance, especially in the area of truck brakes.

While the industry can do much on its own to improve truck safety, government must provide a foundation of rules and regulations with which all carriers and drivers must comply. We have supported and promoted legislative and regulatory efforts to improve truck safety; including:

- Creation of a Commercial Drivers License, including utilization of a biometric identifier;
- Elimination of the Commercial Zone Safety Exemption;
- Establishment of the Motor Carrier Safety Assistance Program, including roadside inspection for driver, vehicle and load;
- Adoption of electronic recordkeeping for hours of service;
- Implementation of brake improvement research; and
- Requirements for drug and alcohol testing.

But more needs to be done. Legislative and regulatory needs include:

- Increased attention to the safety of international container movements;
- Shutting down motor carriers who pose an imminent hazard to highway safety;
- Eliminating drugs at truck stops;
- Upgrading the compensation of Federal motor carrier safety inspectors;
- Increasing the visibility of commercial motor vehicles; and
- Establishing standards for truck driver training schools.

Other safety initiatives previously addressed by this Committee merely need to be fine-tuned, including: safety fitness ratings; brake improvements; MSCAP funding, reinspection, uniformity of inspections and fines, and expansion of the program in urban areas; enforcement authority of Federal inspectors; annual inspections; and brake inspector/mechanic qualifications rules.

NEW SAFETY INITIATIVES

THE SAFETY OF INTERNATIONAL AND DOMESTIC CONTAINER MOVEMENTS

One new area which is in need of immediate legislative attention is the safety of international container movements on U.S. highways. The number of international shipments handled by motor carriers, particularly in the form of containerized freight, has increased substantially over the last decade and will continue to do so in the future. Literally thousands of these containers are overloaded and are likely to be in violation of both Federal and state highway weight requirements. As a result the safety of container transportation is jeopardized.

Overloaded containers are most commonly the result of:

- Foreign ignorance of and indifference to U.S. highway gross and axle weight limits;
- Higher weight allowances on foreign roads;
- Manufacturers' gross weight container ratings;
- Container loading practices abroad;
- Steamship rate structures that encourage overstuffing the containers.

Overloaded trucks compromise highway safety. Excess weight increases stopping distances, decreases the ability to control the truck, and increases the stress on mechanical parts of the vehicle. These problems, when coupled with improperly maintained and aging container chassis fleets, create an unsafe operating environment for motor carriers and the entire highway-user community.

The magnitude of this problem is overwhelming. According to a recent study by the Federal Highway Administration of data gathered on import/export freight movements (called the PIERS data), indicate that more than one-third of all containers moving through U.S. ports, were carrying cargoes that could cause the transporting vehicle to violate Federal highway weight laws. In addition to identifying typically overweight container configurations and ports of embarkation and debarkation, the study pinpointed commodities which frequently resulted in overloads. Beer being imported to the U.S, and moving out of the Port of Rotterdam, Holland, topped the list of potentially overweight cargoes.

By allowing imports, such as beer, to move at higher weights than afforded domestic producers of the same commodity, the U.S. in effect, is, providing an economic subsidy to foreign competitors. The practice of overloading international containers creates a lower transportation cost per unit for

foreign versus domestic products, which affects the selling price of the goods.

These overweight international containers, both import and export, have historically been viewed as a truck weight enforcement problem and not a highway safety and international competitiveness issue. This perspective has evolved from the fact that the only time the movement becomes illegal is when the containers are transported over the highway. Tickets for overweight containers are issued to the motor carrier, even though the trucker:

- o Has no control over the shipment weight;
- o Does not control cargo loading;
- o Is not aware of the container weight; and
- o May be forced by competition to carry the overloads.

All of the same situations are faced by the railroads who are equally concerned.

Exacerbating this situation is the fact that the motor carrier does not control the maintenance of container running gear. Nor does the trucker usually have an opportunity to select a chassis which is compatible with the container load, which may in some instances allow a heavier shipment to be transported legally. This situation exists because in most instances the motor carrier provides the power unit and the driver; the chassis is provided by the steamship company or the port authority.

The FHWA has taken the lead on this issue. To its credit, FHWA recognizes that the motor carrier is not responsible for the overweights and that culpability must be directed at the party responsible for the overloading -- the shipper. Shippers frequently tender as many as five containers, but the accompanying paperwork shows the gross weight of the total shipment not the weight of each individual container. Unfortunately, FHWA lacks the authority to solve the problem. For example, FHWA cannot:

- Issue regulations which make the shipper responsible for overweight containers;
- Require shippers to indicate the actual weight of each container to be transported;
- Require ports to install scales to determine or confirm container weights prior to entry on the highways;
- Require the owners of chassis to provide inspected, properly maintained and appropriate running gear which can safely handle heavier legal loads;
- Eliminate steamship rates that are based on volume and not actual cargo weight.

The problem of overweight international container movements is not going to solve itself, nor will it disappear. In fact, with Europe moving to higher gross and axle weights and trading uniformity in 1992, it will become worse. We urge this Committee to: (1) collect more and better data than the PIERS, (2) schedule early hearings so determine the dimensions of this problem and (3) consider administrative and legislative remedies that will stop the transportation of unsafe, illegal international containers on our highways.

"IMMINENT HAZARDS" TO SAFETY

ATA is in full support of suspending the operation of a motor carrier who poses an "imminent hazard" to safety. This power was given to the Secretary of Transportation by the 1984 Motor Carrier Act but has never been used. DOT claims it lacks operational guidelines to implement the suspension. ATA looks forward to providing input on the development of criteria for determining when such actions would be taken. ATA supports inclusion of this provision in the 1989 ACT.

DRUGS

ATA has a long record of activity and support for the removal of drugs and those who use drugs from the motor carrier industry. We have been major supporters of the adoption of regulations to require drug testing in our industry. We have been major supporters of the adoption of regulations to require drug testing in our industry which include provisions for motor carriers to test employees under the following conditions:

- Pre-employment -- prior to employing or using a driver;
- Periodically -- in connection with the biennial physical; and
- Reasonable cause -- based on observable actions; and

We support regulations which would allow carriers to randomly test their drivers.

We are satisfied that significant action has been taken to show that drugs and those who use them will not be allowed in the trucking industry. However, there are a few problem areas which need to be addressed such as:

- o Expanding drug testing to include intrastate drivers;
- o Testing for more than the current five categories of drugs;
- o The practicality of random and post-accident testing; and
- o The lack of enough certified drug testing laboratories.

TRUCKSTOPS

Legislation and regulations to date have focused on the abuser, not the distributor of drugs to truck drivers. One readily identifiable source of drugs for drivers has been activity centered around truck stops. The key to eliminating drugs at truck stops is increased enforcement by all law enforcement agencies. Unfortunately, in the past, many of these agencies have not viewed the problem as significant in terms of the amount of illicit drugs available. They would rather place their resources where large quantities are imported or sold or where they could apprehend major suppliers and distributors. Drug activity at truck stops involves neither large quantities of drugs nor drug kingpins.

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While the quantities of drugs at truck stops may not be headline generating, the potential impact has a devastating effect on highway safety. Drug dealers need to know that such activity will not be tolerated. We fully support increased enforcement and revised penalty levels for those who distribute or possess with the intent to distribute a controlled substance in or on, or within one thousand feet of a truck stop. We believe that increasing the penalties for their possession and use will serve as a significant deterrent and reduce the exposure of illicit drugs in the motor carrier industry. We fully support provisions in the proposed legislation to address drug activity at truck stops.

MOTOR CARRIER SAFETY INSPECTOR PAY LEVELS

ATA supports increasing the grade level to GS-12 for a fully experienced and qualified senior journeyman motor carrier safety specialist working in the field. These are professionals comparable to safety inspectors in other transportation fields such as railroads and airlines and need to be paid accordingly. We are sympathetic to the plight of government agencies not being able to retain senior level employees because of higher salaries and opportunities in private industry. In the long run, industry will benefit by having better qualified safety specialists in the field to assist carriers with compliance and to shut down the ones who give the industry a black eye.

TRUCK VISIBILITY

ATA is actively involved with the Society of Automotive Engineers (SAE) in the development of an SAE "Recommended Practice" for measuring the reflectivity and durability of reflective sheeting materials. This work is in progress with expected completion in two to three years. If more study is necessary to enable establishment of standards, it should be done as expeditiously as possible. We urge Congress to provide whatever assistance is necessary to conclude this work.

There needs to be additional study to determine the effects of increasing vehicle visibility. Initial studies indicate that traffic flow is enhanced by increased vehicle conspicuity. However, other studies show that vehicles with enhanced visibility are more prone to being struck in the rear when stopped or parked on the shoulder of a roadway through a syndrome commonly known as the "moth effect".

Unfortunately, the research needed to determine the correct illumination package for both moving and stopped trucks will take time. Again, we urge Congress to provide the resources necessary to conclude this research as quickly as necessary. If more time is necessary, we are concerned that the time frame mentioned in the bill will not allow enough time for completion of the studies which are underway. These studies should be

completed before a rulemaking is initiated. We fully support an increased research effort relating to truck visibility as quickly as possible.

TRAINING FOR OPERATORS OF COMMERCIAL MOTOR VEHICLES

The trucking industry is united in the belief that the motoring public deserves to share the road with trucks operated by drivers who are dedicated to moving their loads as safely as possible in vehicles that are maintained to the highest standards possible. ATA believes that only trained and licensed drivers should be entrusted to operate a commercial motor vehicle. That is why we were early supporters of a commercial driver's license which improved the professionalism of truck drivers by requiring:

- National drivers license standards for testing and qualifying commercial vehicle drivers;
- A single license system;
- A national information system containing information about commercial vehicle licensees, license issuance, license revocations and suspensions, and disqualifications;
- Exchange of license and traffic violations records of commercial vehicle drivers by the states;
- Grants to help states develop and operate licensing programs which conform to the standards;
- Penalties for states which do not issue licenses in conformity with standards; and
- Disqualification provisions for serious infractions by commercial vehicle drivers.

That is why ATA offers a full range of material to retrain the professional truck driver such as:

- The Tractor Trailer Driver Manual - A Guide for Professional Drivers (two volumes);
- Coaching The Professional Truck Driver;
- Truck Drivers Handbook;
- Vehicle Inspection Module; and
- Other publications and videos designed to inform and train commercial motor vehicle operators.

All too often new drivers have received minimum initial training which included only classroom or observation time and minimal behind the wheel training. For years, truck driver training schools failed to offer the type of training which made the driver a real professional. Recognizing this failure, the trucking industry banded together to create the Professional Truck Driver Institute of America (PTDIA) to certify truck driver training schools which meet fundamental and specific requirements.

After four years and nearly one million dollars, PTDIA has certified its first schools. Drivers graduating from these schools meet specific standards established by the industry. These standards refined the Proposed Minimum Standards for Training Tractor-Trailer Drivers published by the FHWA in 1984 and the Model Curriculum for Training Tractor-Trailer Drivers published by FHWA in 1986.

We view industry and government having separate roles in this process. Industry should provide the "design" standard by which training needs and objectives should be developed. Government should be involved by setting the "performance" standards by which these design standards are measured. Performance standards currently exist in the regulations that have been adopted for implementation of the commercial drivers license (CDL) program.

Although implemented only in California and Tennessee the regulations have set performance standards for drivers to pass such as:

- A general knowledge test for every commercial drivers license;
- Specific tests for each additional endorsement;
- Skill or driving tests for the particular type of vehicle a driver will be operating; and
- Ability to perform the required driver pre-trip inspection.

PTDIA has lead the way in design standards for schools providing training to tractor-trailer drivers. We believe Congress should support the initiatives of industry to voluntarily establish training standards for truck driver training schools. We look forward to working with the Committee to determine the best way to ensure that all schools meet minimum standards without damaging already existing private sector initiatives.

FINE-TUNING EXISTING REGULATIONS AND PROGRAMS

SAFETY FITNESS RATINGS

ATA has been a strong proponent of the FHWA safety review program. This program is the starting point for the FHWA safety program which is used to determine the safety rating or fitness of unrated motor carriers. To meet the safety fitness standard the motor carrier is required to demonstrate that it has various safety management systems in the place to ensure compliance in the following areas:

- Commercial driver license requirements;
- Adequate level of financial responsibility;
- Driver qualifications;
- Safe vehicle operation on the highway;
- Accident reporting;
- Drivers hours of service requirements;
- Proper repair, maintenance, and inspection of vehicles;
- Compliance with hazardous materials regulations; and
- Proper reporting of hazardous material incidents and vehicle accidents.

After a thorough review of these elements with the motor carrier FHWA assigns either a satisfactory, conditional, or unsatisfactory safety rating. ATA has been a strong proponent of the FHWA safety review program and will continue to support it as long as it is fairly administered and ample opportunity is given for a reassessment of the rating of a motor carrier that has been rated unsatisfactory.

We believe the public and shippers should have ready access to the ratings. We believe shippers will use these rating in their selection of carriers. However, if ratings are to be used by the marketplace to determine which carriers receive traffic, there must be a process in place which allows for quick reevaluation of a carriers' rating. Otherwise carriers will be out of business while they wait for the government to act. Carriers simply cannot wait up to one year for FHWA to conduct the reassessment. FHWA's primary role should be that of educating carriers to comply with Federal safety regulations, not putting them out of business.

However, ATA supports the proposed requirement to prohibit motor carriers that transport hazardous materials who receive an "unsatisfactory" rating from operating a commercial motor vehicle until the carrier receives a higher rating. In this instance, it is imperative that as soon as a carriers can take corrective action FHWA reassess the operation.

IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES

The National Highway Traffic Safety Administration (NHTSA) released a study, mandated by the Motor Carrier Safety Act of 1984, which recommended a three phase brake improvement program to:

1. Improve timing and torque balance of brake applications;
2. Provide ratings of valves and linings so that the performance of replacement parts is compatible with original equipment;
3. Make braking performance of tractors and trailers more compatible with each other;
4. Improve the current system with new brake technology, such as antilock; and
5. Design a truck brake system for vehicles of the future.

Government and industry are currently cooperating in work for improvement of truck brakes through a variety of studies and work projects under the guidance of NHTSA. This research is being conducted with the participation of groups such as the Motor Vehicle Manufacturers Association Truck Division, the actual manufacturers of the brake components themselves, the Truck Trailer Manufacturers Association, and the ATA.

The results of these studies and recommendations should be completed at or near the time proposed for DOT to initiate a rulemaking proceeding. We believe sufficient information will have been developed by them to either show rulemaking is unnecessary or to decrease the time necessary to produce a final rule covering these subjects if a rulemaking is desired.

MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

Reinspection

ATA has been a leader in the development and subsequent funding of the Motor Carrier Safety Assistance Program (MCSAP). Since its inception, ATA has been a strong advocate of this program, which provides assistance to state motor carrier enforcement agencies that adopt regulations compatible with the Federal Motor Carrier Safety Regulations and then trains personnel to enforce those regulations. We have sought increases in funding levels for this program and participated in organizations such as the Commercial Vehicle Safety Alliance (CVSA) which evolved to insure that uniform enforcement is carried out across the nation.

We strongly agree that motor vehicles and/or operators placed out-of-service as a result of safety violations should not go back into service until the necessary corrective action has been taken. However, we do not believe that requiring a random reinspection of out-of-service violations by enforcement agencies is appropriate. Motor vehicle inspectors are most effective and productive when they are on the highways inspecting vehicles and drivers. Requiring inspectors to spend even a small portion of their time reinspecting vehicles will cut back on meaningful truck inspections and reduce the effectiveness of the MCSAP program.

A program of accountability for correcting all safety violations by requiring forms to verify that repairs have been made would create a nightmare of paper-work matching inspection reports with repair reports and then following up on non-compliance. Development and administration of a penalty process to enforce such a program will take vital funding away from the primary focus of MCSAP -- removing unsafe vehicles and drivers from the nation's highways.

Funding

As mentioned above, ATA has been and will continue to be a strong proponent of the MCSAP program. In fact, we will support increased funding of the MCSAP program to $60 million in next year's FHWA budget. This increased funding is necessary because the MCSAP program is involved in the inspection of vehicles, the cargo (especially hazardous materials), and the driver. MCSAP funds are also being utilized to fund grants to the states for implementation of the Commercial Drivers License (CDL) program.

Urban Inspections

Finally, MCSAP funds will now have to cover all vehicles operating in the exempt commercial zone. We fully support these increased inspections. In fact we are working with the National

Asphalt Pavement Association (NAPA), State Trucking Associations and others to develop a joint safety program which will increase truck safety in urban areas. We will be making a major joint announcement in three to four months on this project and will keep the Committee informed.

Uniformity of Inspections and Fines

However, motor carriers are encountering difficulties with states that do not recognize the inspections of other states that receive MCSAP funding. This is resulting in motor carriers being stopped day after day and reinspected. Stopping the same vehicle for reinspection in some cases as often as twice a day while crossing state borders is a waste of inspector time and could result in unsafe vehicles not being inspected. We do not oppose reinspection where there is good cause but we do object to the problem of states participating in the same program not accepting each other's inspections. We encourage Congress to direct FHWA to take a stronger role in influencing states to recognize each others inspections.

We are also concerned that many of the fines resulting from violations of the motor carrier safety regulations are not consistent and vary depending upon the jurisdiction. It would be unrealistic to demand a fine structure that was the same for every state or locality. We realize that these penalties are

administered by different methods including criminal, civil, and administrative procedure. However, it now appears that many jurisdictions are utilizing these fines as a revenue-generating device rather than a penalty for unsafe drivers and equipment. Examples abound from state to state of instances where the same violation in one state may receive a $100 fine yet the very same violation in another state is as much as $1000. Clearly these types of problems must be corrected. We urge Congress to encourage FHWA to continue to work with the states to recommend reasonably uniform fines which reflect the seriousness of the offense.

ENFORCEMENT AUTHORITY OF FEDERAL INSPECTORS

As noted earlier, we believe the primary role of FHWA should be that of educating carriers to comply with Federal safety regulations, not imposing fines and putting carriers and, in the case of private carriers, manufacturers out of business. Motor carrier safety specialists should not be required to initiate enforcement action at the time of safety review, compliance review, or other inspection or audit activity whenever a serious safety violation can be documented. We believe that a requirement to initiate enforcement removes the element of discretion from the inspector. There could be instances where mitigating factors would not warrant enforcement action or an inspector could make a mistake which would then require additional paperwork and time to correct.

However, we support authorizing safety specialist to initiate enforcement action whenever serious safety violations can be documented. An inspector should be authorized to initiate the appropriate enforcement action based on the facts and evidence discovered in an investigation, not by an administrative requirement.

ANNUAL INSPECTIONS

ATA is strong in its support for roadside inspections for requirements that motor carriers must have systematic maintenance and inspection programs. However, we have stated in previous testimony and we continue to believe that the mandate for annual inspections, set forth in the Motor Carrier Safety Act of 1984, will drain manpower and funds away from those programs and should be abolished.

Trucks work so hard in delivering the nation's goods and services that an annual inspection is not enough. What is enough is based upon the job the truck does and must be established by its operator. The office of Motor Carriers has assured that truck users will conduct appropriate maintenance through its requirements for systematic maintenance.

Congress needs to take a further look to determine the best way of using manpower and funds for inspections. The Office of

Motor Carriers (OMC) has implemented Section 210 of the Motor Carrier Safety Act of 1984 through Federal Motor Carrier Safety Regulations 396.17-23. While the Federal annual inspection which has been created follows the mandate of the 1984 Act, it creates a huge paperwork burden for both carriers and the OMC.

Quite logically OMC wants records of the federal annual inspection which will allow a carrier's inspection process to be traced and judged. With 7 million vehicles involved (there are 5.3 million freight carrying trucks which includes combinations like doubles counted as one unit when, for inspection purposes they are four-tractors, two trailers, dolly-vehicles), generating and inspecting all of the needed records takes much time. The time and money generating and inspecting records would be much better applied to the roadside inspection effort.

Carriers are having serious paperwork related problems meeting the federal annual inspection. While OMC is working hard with the industry to solve these problems, we believe the best solution would be to drop Section 210 of the 1984 Act.

BRAKE INSPECTIONS

The FHWA has written regulations implementing Section 210 of the Motor Carrier Safety Act of 1984 requiring federal annual truck inspections. In addition, OMC is developing regulations to

implement section 9110 of the Truck Safety and Regulatory Reform Act of 1988 relating to the qualifications of those who repair and inspect truck brakes. Because of the approach OMC has taken relative to "employees" in both proceedings, problems are developing.

In implementing Section 210 of the 1984 Act, OMC has made motor carriers responsible for someone else's employees. For example, a carrier using an independent commercial garage to perform annual inspections of its vehicles, must ensure that the employees of the garage which conduct the federal annual inspections are "qualified". Carriers are obviously placed at a disadvantage when they must show another employer's employee to be qualified.

In the case of qualifications of those who deal with truck brake inspections and repair (Sec. 9110 of the 1988 Act), OMC has stated that because of where Congress placed Section 9110 in the U.S. Code:

> ....the FHWA believes that persons who are not employees of motor carriers but who may inspect or maintain the brakes or brake systems of commercial motor vehicles are not covered by Section 9110 and any subsequent regulations implementing that Section. An example of this would be independent garage owners and their mechanics.

FHWA's interpretation implies that only employees of motor carriers who service or inspect brakes are unqualified while those of all other types of repair facilities are qualified. This just doesn't make any sense.

We will work with Congress to rectify and recodify these conflicting statutes so that:

- Carriers are only responsible for their own employees, and that
- The Office of Motor Carriers, can establish regulations to assure that employers other than motor carriers also ensure that their employees who inspection or maintain truck brakes are qualified.

CONCLUSIONS

The mandates of Congress set forth in the 1984, 1986, and 1988 motor carriers safety acts are now being carried out by DOT and the industry. However, there is a need for continued Congressional oversight and for additional Congressional action to improve motor carrier safety. The proposed legislation continues to identify new initiatives and refines other areas which the industry generally supports. We look forward to working with this committee to enhance truck safety.

Senator EXON. Thank you, Mr. Donohue.
Mr. Bergoffen, welcome to you.
Please proceed.

STATEMENT OF GENE BERGOFFEN, EXECUTIVE VICE PRESIDENT, NATIONAL PRIVATE TRUCK COUNCIL

Mr. BERGOFFEN. Thank you, Mr. Chairman, and thank you for the welcome.

I am Gene Bergoffen, Executive Vice President of the National Private Truck Council, a national organization representing private carriers.

The NPTC was formed last fall by merger of two long-established, but smaller, organizations, representing private carriers.

We are very pleased, and I am very pleased personally, that our first opportunity to appear before you since we were formed concerns motor carrier safety.

No other matter is more important to our members.

We are proud of our already safe operations. NPTC members are interested in exploring ways, though, of making truck transportation even safer.

So, in our testimony today, we are pleased to support most of the initiatives contained in S. 819.

Before describing our position on the provisions of the bill, I would like to take just a moment to comment on the relationship between reduction in economic regulation and safety.

We strongly believe that the country has benefitted from the reduction in economic regulation of the trucking industry, following enactment of the Motor Carrier Act of 1980. We strongly support additional reductions in economic regulatory requirements, particularly at the State level. We believe that these reforms will enhance our national productivity and competitiveness by, among other things, allowing private carriers to use their fleets more efficiently.

I bring this up only because we still occasionally encounter arguments opposing further economic regulatory reforms on safety grounds. In short, as outlined in my written statement, we do not see safety arguments as a legitimate bar to further reduction in economic regulation of trucking.

Turning now to S. 819, we support most of the bill's provisions. Specifically, we support section 3, imminent hazards to safety.

The guidelines promulgation process could well have the effect of encouraging stronger enforcement against carriers with dangerous operating practices and reminding them that there is no right to operate unsafely.

We strongly support section 4, drug violations at truck stops. We hope that this provision will continue to discourage drug dealing at these facilities and help in keeping drugs away from truck drivers.

We support section 6, which would upgrade the status and pay of commercial motor vehicle safety inspectors.

We strongly support section 7, the proposed requirements to insure timely correction of safety violations found by State inspectors. When operators are found not to have moved to correct violations found by inspectors, it is appropriate that some penalty be imposed.

I will now turn to provisions which we support in part or recommend be modified.

Under section 2, a carrier with an unsatisfactory safety rating would be subject to some important new sanctions, including a prohibition on the carriage of hazardous materials. We support some strengthening of sanctions for carriers of unsatisfactory ratings, but believe that certain procedural protections should be accorded a carrier before the sanctions are imposed.

In short, we believe carriers are entitled to notice and a chance to consult before a tentative unsatisfactory rating is finalized and made public. Carriers should also have a prompt chance to correct such a rating and have that recognized.

We are unable to support section 8 in its current form, which we understand would mandate imposition of civil penalties or other sanctions against a carrier for certain violations.

Our general view is that enforcement should focus on obtaining remedial action. Sanctions should be imposed only where necessary to obtain remedial action. Even a carrier with a good safety program may occasionally have a violation. Where the violation is an aberration by a carrier with a consistent record of safe operation,

we believe there should be at least discretion not to impose sanctions.

Mr. Chairman, in sum, we support most of the bill's provisions, but have some minor concerns with others. We stand ready to give you whatever assistance you need as you give further consideration to the bill.

More important, however, is the long-term need for Congress to enact additional trucking legislation is order to enhance both safety and our Nation's international competitiveness.

In my written statement, I have specifically mentioned three prime areas for future action: One—drug and alcohol testing; two—reasonable access for SDAA vehicles; and three—economic regulatory reform to expand opportunities to make efficient use of equipment.

We look forward to working with this Committee and the entire Congress on these and other important issues in the months and years to come.

That concludes my statement, Mr. Chairman.

I understand the full statement will be included in the record, and we thank you very much for this opportunity to be here today.

Senator EXON. Without objection, the full statement will be incorporated in the record.

[The statement and questions and answers follow:]

STATEMENT OF GENE BERGOFFEN, EXECUTIVE VICE PRESIDENT, NATIONAL PRIVATE TRUCK COUNCIL

Mr. Chairman and Members of the Subcommittee:

I am Gene Bergoffen, Executive Vice President of the National Private Truck Council, the national organization representing companies operating truck fleets as an extension of their manufacturing, retailing, or other primary business.

The NPTC

The NPTC was formed last fall by the merger of two long established, but smaller organizations representing private carriers. Collectively, private carriers represent perhaps the largest segment of the total universe of truck operators; no attempt to survey motor carriers of freight can be even partially complete without taking them into account. For example, in 1986 private carriers operated fully two-thirds of the 1.02 million trucks in this country of over 26,000 pounds gross vehicle weight.

Our new and growing association of roughly 3,000 members is fully representative of this extremely important group of motor carriers. We represent large fleets operated by Fortune 500 companies and the small fleets of local businesses. Our members operate virtually every type of equipment, from tractor-trailer combinations using tank trailers or 48 or 53 foot long trailers, to straight trucks used in local delivery operations by bakeries

and dairies. Their operations are structured in many different ways. Some operate company owned trucks using union drivers. Others lease trucks, drivers, or both. Some both own and lease equipment. Some operate their equipment solely as private carriers. Many also conduct some for-hire operations. Our diversity of membership is reflected on our board and, for the Committee's information, I have attached our current board membership to this testimony.

The NPTC's Commitment to Safe Trucking Operations

We are very pleased that this, NPTC's first appearance before the Congress since it was formed, concerns motor carrier safety. No other matter is more important to our members. Educational and other activities to further the safe operation of trucks are a focus of our organization's energies, in the interest of both the members and the traveling public.

The hub of these ongoing activities is our Safety Committee. For the Committee's information, I have also attached to our testimony a brief description of the educational and other activities of our Safety Committee. Let me also note our intention, beginning with our Safety Committee meeting here in Washington on June 8 - 9, to provide this Committee and its House counterpart with an expanded and regular opportunity to meet the professionals who are responsible for the safe operation of our

members' fleets. We will be providing staff with further information on that meeting in due course, and are hopeful that such expanded consultation will prove helpful to the Congress.

While our members are proud of their already safe operations, they are interested in exploring ways of making truck transportation even safer. Thus, in our testimony today, we are pleased to support most of the initiatives contained in the proposed "Motor Carrier Safety Act of 1989," which you, Mr. Chairman, and Senator Danforth have just introduced.

However, before describing our position on the provisions of that bill, I'd like to take a moment to outline our views on three other important issues which are sometimes raised in discussions of truck safety.

Support For Drug and Alcohol Testing

NPTC believes that testing drivers for drug and alcohol use will bring important motor carrier safety benefits. Thus, we take this opportunity to commend Chairman Hollings, you, Mr. Chairman, Senator Danforth, and the many other co-sponsors of S. 561, for seeking to establish a firm, clear, and effective national policy for drug and alcohol testing of drivers. While we may have some suggestions to improve that proposal, we intend to be very supportive in this important area.

And, Mr. Chairman, we want this Committee to know that with respect to drug and alcohol testing, as with other issues, we are advancing our policies on many fronts. For example, NPTC filed a friend of the court brief with the U.S. Supreme Court in support of USDOT's rules requiring post-accident testing of railroad workers. We have also scheduled, for this June 21-22 in Chicago, a seminar which will help our members develop and implement effective and lawful drug testing programs.

Expanded Access For STAA Vehicles
Will Enhance Productivity and Safety

Mr. Chairman, while nearly two years have passed since it happened, I want to take this opportunity on behalf of our members to specifically commend you for having introduced S. 1391 in the last Congress. That bill would have helped ensure the access of larger equipment authorized by the STAA, such as 48 foot long trailers, to points of loading and unloading off Interstate and certain other main highways.

This is an area where we believe this nation can enhance its international competitiveness without diminution of safety. Our members have consistently advised that their safety experience in operating 48 foot trailers and other STAA authorized equipment off main highways has been good; that they can operate this

equipment safely in many areas where Federal statutes and rules do not presently guarantee a carrier's ability to use it.

The use of STAA equipment clearly allows a given amount of cargo to be moved with fewer vehicle trips. As a result, safety is also enhanced because there are fewer vehicle moves, period.

We are all aware that, since S. 1391 was introduced, the issue of access for STAA equipment to points off certain main highways has become the subject of a pending Federal Highway Administration rulemaking and a Transportation Research Board study. We do not presume to press Congress to legislate on this issue while those actions are pending.

However, our commitment to expanded access for STAA equipment is firm. So, if pending administrative actions in this area pass up this opportunity for improved productivity, we will bring this important issue back before the Congress for further consideration.

Safety Not A Bar To Improving Productivity and International Competitiveness Through Further Reduction In Economic Regulation

The NPTC strongly believes that the country has benefitted from the reduction in economic regulation of the trucking industry which followed enactment of the Motor Carrier Act of 1980. We believe that the substantial gains in economic

efficiency which have flowed from that legislation have enhanced the international competitiveness of our nation.

NPTC strongly supports additional reductions in economic regulatory requirements, particularly at the state level. We believe that such reforms will similarly enhance our national productivity and competitiveness by, among other things, allowing private carriers to use their fleets more efficiently. And, we are in an era when we simply cannot afford to pass up opportunities to increase productivity and competitiveness.

Mr. Chairman, I raise the economic regulatory issue today because we still occasionally encounter arguments opposing further economic regulatory reforms on "safety" grounds. So, I want to establish, in our first appearance before this Committee, our strong disagreement with such contentions.

Addressing and resolving issues directly concerning the safe operation of vehicles is the way to enhance truck safety -- and the Congress, with leadership from this Committee and the House Public Works Committee, has commendably followed that approach in enacting a landmark series of truck and bus safety bills during the 1980's. We see the bill before the Committee today as a continuation of that sound approach. In addition, we note that the recent OTA report found that no clear link can be established between economic regulation of truck operations and truck safety.

In short, we do not see "safety" arguments as a legitimate bar to further reduction in economic regulation of trucking, a reform which will help enhance our nation's productivity and international competitiveness.

Proposed "Motor Carrier Safety Act of 1989"

We turn now to the motor carrier safety legislation which you, Mr. Chairman, and Senator Danforth have just introduced.

Provisions Supported

We support most of the bill's provisions. I will begin by noting those provisions and the reasons why we support them.

Section 3, Imminent Hazards To Safety. We support this proposed requirement that DOT develop guidelines for using its existing statutory authority to order a vehicle, employee, or even an entire fleet out of service to the extent continued operations pose an "imminent hazard" to safety (i.e., that continuation of operations is likely to result in serious injury or death).

We understand that the concern underlying this provision is that, while DOT regularly orders individual vehicles out of service until corrective repairs are made, it apparently has not

used this authority to shut down the operations of a multiple vehicle fleet on a fleetwide basis. While we have no basis for knowing whether the agency has failed to act against fleets posing an imminent hazard, we support the provision as a means of reaffirming the public's right to protection from imminent hazards. The guideline promulgation process could well have the salutory effects of encouranging stronger enforcement against carriers with dangerous operating practices and reminding carriers that there is no right to operate unsafely.

Section 4. Drug Violations at Truck Stops. We strongly support this provision, which we understand would increase the penalties imposed on individuals distributing illegal drugs at truck stops. We are hopeful that such a provision would discourage drug dealing at these facilities, helping keep drugs away from truck drivers.

We also support the bill's apparently broad definition of truck stops, which we understand to include any terminal, plant, or other facility which provides fuel or service for trucks. We don't want drug dealers near our drivers when they are visiting plants or terminals any more than we want them near our drivers at conventional truck stops. In addition, we support expansion of this provision to increase the penalties for individuals distributing drugs at "rest stops" (where fuel and service is not available).

Section 6. Safety Inspector Grade Levels. We support an upgrade in the status and pay of commercial motor vehicle safety inspectors. Since safety is so important -- to the carrier as well as the public -- it is appropriate for the government to establish pay levels which will keep good people in this profession and attract additional good people to it.

Section 7. Procedures To Ensure Timely Correction of Safety Violations. We strongly support these proposed requirements to ensure the timely correction of safety violations found by State inspectors whose activities are supported at least in part with Federal funds from the Motor Carrier Safety Assistance Program. We believe that a carrier should give priority attention to correcting violations brought to its attention. Thus, when operators are found not to have moved to correct violations found by inspectors, it is appropriate that some penalty should be imposed.

Our general philosophy on government motor carrier safety enforcement is that the government's initial response, upon identifying a violation, should consist solely of a directive that remedial action be taken by the carrier. We believe that in most cases the government will be able to reasonably presume good intentions on the part of the carrier, making the imposition of fines or other sanctions unnecessary to achieve safe operations by the carrier in the future. However, when a carrier fails to

take action to correct violations brought to its attention, the carrier is not entitled to a presumption of good intentions. Then it is appropriate for the government to believe that the particular carrier will not take necessary steps to ensure safety unless sanctions of some kind are imposed.

Other Provisions

As explained below, we either do not object to, or have some concerns with other provisions. Our primary concern is that section 2 be adjusted to provide certain procedural rights to carriers.

Section 2, Motor Carrier Safety Ratings. Under this provision a carrier with an unsatisfactory safety rating would be subject to some important new sanctions, including a prohibition on the carriage of hazardous materials. We support some strengthening of sanctions for carriers with unsatisfactory ratings, but believe that certain procedural protections should be accorded to a carrier before those sanctions are imposed.

Specifically, this provision would establish that any operator receiving an unsatisfactory rating may not carry hazardous materials (in quantities requiring placarding) until that operator receives an upgrade of the rating to conditional or satisfactory. It also provides that, where an operator requests

reassessment of an unsatisfactory rating, DOT shall, to the extent practicable, conduct a reassessment within a year. The provision also appears to contemplate some expansion of the present system of public access to motor carrier safety ratings, so that the identity of operators rated unsatisfactory will be more readily available to the public.

We believe that the public should have access to the identity of carriers rated unsatisfactory, provided the rating is not made arbitrarily. While the proposed prohibition on carriage of hazardous materials in and of itself represents a serious sanction for many carriers, an unsatisfactory rating results in other "sanctions." Specifically, carriers (both for-hire and private) risk major customer defections upon receipt of an unsatisfactory rating. Shippers of non-hazardous cargo, concerned whether a carrier rated "unsatisfactory" will be able to deliver cargo to the destination in good condition, may shift their business quickly.

Because this "sanction" begins to take effect virtually immediately upon issuance of the rating, we believe some procedural safeguards should apply to the issuance of an unsatisfactory rating. We believe that legislation should provide that a rating of unsatisfactory should not be finalized before the carrier has at least some opportunity to appeal to or consult with DOT, even if only for a few days. Without in any

way questioning the professionalism of inspectors, without some such opportunity for consultation, there is always a chance that a carrier could receive an unsatisfactory rating on the basis of misunderstandings or incomplete understandings of the facts.

Some such protection is uniquely required with respect to issuance of an unsatisfactory rating because the carrier begins to "pay" immediately. By contrast, in the case of proposed civil penalties, the carrier always has a chance to contest before the fines are collected.

We are similarly troubled by the bill's apparent acquiescence in an administrative scheme which could force a carrier rated unsatisfactory to wait a year or longer for a reassessment of its rating. Leaving an unsatisfactory rating in place for so long a period could be the functional equivalent of a death sentence for a for-hire or a private carrier. Accordingly, we suggest that the bill require the government to complete a reassessment (if requested by a carrier rated unsatisfactory) within 30 days of the request. Such prompt reexamination is fully consistent with section 7 of the bill, which demonstrates interest in ensuring that cited violations are corrected promptly. The requirement of a prompt reassessment would direct the government to focus its attention on a carrier rated unsatisfactory, a reasonable enforcement focus, while ensuring that the carrier obtains the reassessment it must have

in order to have a chance of reestablishing its business.

Before turning to other provisions, let me emphasize that we are not saying that we support an unconditional grace period for fleets which have a pattern of significant safety violations. When significant violations are present, indicative of a lack of commitment to safety by the carrier, DOT can and should impose sanctions under its existing authority. In extreme cases, where an imminent hazard is created by a carrier's practices, DOT should exercise its statutory out of service authority.

Further, we do support one approach to strengthened sanctions on carriers rated unsatisfactoy. DOT is currently without authority to prohibit carrier operations solely on the basis of an unsatisfactory rating; prohibition of operations by DOT currently requires the presence of an imminent hazard to safety under 49 U.S.C. § 521(b)(5). While we do think the bill as introduced goes too far in adding to DOT's already considerable sanctions authority, we can support prohibition of carriage of hazardous materials by a carrier which fails to receive an upgrade of an unsatisfactory rating within 30 days of requesting the reassessment (provided DOT conducts the reassessment within that time).

In short, we believe carriers are entitled to notice and a chance to consult before a tentative unsatisfactory rating is

finalized and made public. Carriers also should have a prompt chance to correct such a rating. Such procedures will ensure that severe penalties are not meted out due to misunderstandings, and that the penalties which effectively come with an unsatisfactory rating do not continue to be imposed long after corrective action has been taken. We think these are reasonable precautions given that DOT's existing authority to impose other sanctions will not allow an irresponsible carrier to escape without serious penalty, even if it is not put out of service entirely.

Section 5, Improved Brake Systems, and Section 9, Truck Visibility. These sections require initiation of rulemaking proceedings on possible new vehicle equipment performance requirements. It also requires those proceedings to be completed within specified time frames.

It is our understanding that, under each of the provisions, DOT could fulfill its statutory duty through timely issuance of a decision making no change in present regulations. Assuming that these provisions do not mandate any change in present rules, much less any particular change, we can not object to them. However, if our understanding is incorrect, we may submit supplemental views to the Committee.

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Section 8. Serious Safety Violations. We are unable to support section 8, which we understand as mandating the imposition of civil penalties or other sanctions against a carrier for each instance in which it is found to have committed either a "serious pattern of safety violations", a "substantial health or safety violation" (as those terms are used in 49 U.S.C. § 521(b)(2)), or certain recordkeeping or commercial drivers license violations. We take this position with some reluctance because we recognize that, in many instances, the presence of serious violations may reflect a lack of commitment to safety by the carrier, warranting the imposition of penalties.

However, as noted earlier, our general view is that enforcement should focus on obtaining remedial action. Sanctions should be imposed only where necessary to obtain remedial action. Even a carrier with a good safety program may occasionally have a serious violation. Where the violation is an aberration by a carrier with a consistent record of safe operation, we believe there should at least be discretion not to impose sanctions. We also question the appropriateness of mandating penalties for paperwork (recordkeeping) violations, which at least to some degree would be the case under this provision.

Driver Training. We understand that consideration is being given to adding to the bill a provision which would require DOT to develop a standard for the training of drivers. We believe a

decision on whether to proceed with any such requirement should be delayed until the commercial driver's license program (CDL) is implemented. With the testing requirements of the CDL, a training requirement may not be necessary.

This is not to say that training cannot be beneficial. Many of our member companies have driver training programs. In addition, the industry currently has a voluntary initiative under way, through support of the Professional Truck Drivers Institute of America, to improve truck driver training through, among other things, certification of driver training schools. Another example of voluntary effort in this area is the work of the Commission on Accredited Truck Driving Schools. However, we do not believe that every action which can be beneficial should be required by law. At this time, we believe Congress should let voluntary efforts and CDL implementation proceed and examine the issue in light of those developments before legislating new requirements.

Conclusion

Mr. Chairman, in sum, we support most of the bill's provisions, but have some concerns with others. We stand prepared to provide whatever assistance the Committee may require as it gives further consideration to the bill.

More important, however, is the long term need for the Congress to enact additional trucking legislation in order to enhance both safety and our nation's international competitiveness. I have specifically mentioned today three prime areas for future action: (1) drug and alcohol testing; (2) reasonable access for STAA vehicles; and (3) economic regulatory reform to expand opportunities to make efficient use of equipment. We look forward to working with this Committee and the entire Congress on those and other important issues in the months and years to come.

Mr. Chairman, that concludes my statement. We thank you for the opportunity to appear before you today.

QUESTIONS OF SENATOR KASTEN AND THE ANSWERS

Q. This Committee has worked hard over the years to improve motor carrier safety. Our primary motivation has been to save lives, but do you think these safety improvements also make sense from an economic standpoint?

ANSWER: NPTC members are committed to the safe and productive utilization of their truck fleets, both equipment and drivers. They also believe that motor carrier safety goes hand-in-hand with productivity. Regardless of what their principal business may be, as a furniture manufacturer or a clothing retailer for example, our members simply cannot afford the lost productivity that results from vehicles or drivers being placed out-of-service, or when injuries occur to drivers or repairs have to be made to vehicle because of an accident. Thus, NPTC believes that the improvements in motor carrier safety which the Committee has sponsored have, as a general proposition, been economically beneficial to our members.

On the other hand, NPTC wants to make clear that it does not believe that every motor carrier safety proposal will make sense from an economic or safety standpoint, and that, at times, legislative safety initiatives do not result in constructive economies of scale.

Q. One of the provisions in this bill [the Motor Carrier Safety Act of 1989] would require the Department of Transportation to determine whether to require improvements in commercial motor vehicle visibility. Some though has been given to using reflective tape on the back of trucks to make the vehicle more conspicuous. What are your views on this matter?

ANSWER: NPTC is not aware that the visibility of commercial motor vehicles has proven to be a major safety problem. Nonetheless we agree that this is a reasonable are of inquiry for DOT. Accordingly, NPTC would support the initiation by DOT of a study into the need for improving the visibility of commercial motor vehicles, including consideration of the costs and potential benefits of requiring carriers to use reflective tape on the backs of trucks. NPTC does not, however, support legislation which would specify a particular outcome of such a DOT proceeding, or which specifies particular regulatory requirements that DOT should adopt as a result of its proceeding, for example a requirement that carriers use reflective tape on the back of their trucks.

Senator EXON. Thank you, Mr. Bergoffen.

We will go to the questions now.

Let me start with you, Mr. Donohue.

First, with regard to the tests that we are continuing to work on and, hopefully, improve on for truck and bus drivers, I took it from your testimony that your overall assessment is that the tests are good.

We have had some complaints from certain areas that the tests may be too restrictive in certain areas. I heard a statement somewhat to the effect that this is not a college entrance examination.

On balance, how do you feel the Department has done thus far in formulating the tests, and what is your view as to whether or not there is necessary and needed improvement in that area, as of now?

Mr. DONOHUE. Mr. Chairman, I think whenever government decides to test 3 million to 5 million truck drivers in a way that has never been done before, there are going to be some stumbling blocks along the way. But I think the fact that there is a driving test, which is an indication of physical skill and mental judgment in driving the truck, that it is going to work.

I think the so-called "walk around" in which drivers inspect the truck before taking a trip is going to work very well.

Finally, I think the written test is something that many drivers did not adequately prepare for.

I think what happened when the test first started is many people figured it was going to be a cake-walk and they didn't do any preparation or study. Since they have found out that they have to study, the pass rate has gone up significantly.

Also, I think, some of the States overly stressed the use of the English language and the ability to read and write. Perhaps the lawyers in the legislature may have done a little better than some of the truck drivers. Some adjustments have been made: Instructional material is available in Spanish and on audio tape.

But on measure, what we are seeing for the first time is that there will be a standard of performance that drivers will meet or they will not get a license to drive an 18 wheeler, or an 80,000 pound truck in this country. I think we have made tremendous progress and I would encourage everyone to keep working on full implementation.

Senator EXON. I hope that the lawyers in the State Houses do not become truck drivers. That would be a significant step backwards, as far as safety is concerned, I suggest.

Mr. DONOHUE. It would be a step backward for the trucking industry, sir.

Senator EXON. You touched on a matter that, as an old governor, remains of major concern to me.

One of the problems that we continue to have, I think, in the insurance industry is that the State regulators of the insurance industry at one time had an extremely strong national organization and they solved internally many of their problems.

I had a question with regard to some of the testimony that States are still not fully cooperating.

Is a part of that due to the fact that the State organizations do not have a strong national organization and do not have reciprocity

back and forth that I think is fundamental if we are going to keep the Federal Government out of doing everything and passing all the laws? State cooperation, working with the Feds, seems to me is one of the most important things that we have in this whole safety area.

Are we moving in the right direction in that regard?

Mr. DONOHUE. Well, I would make three comments on that, Mr. Chairman.

Number one, there is the normal independence and competition between States. They compete every day for economic opportunity. They compete in football between their State universities. There is a great exchange of enthusiasm on lots of issues.

So, when somebody goes from Texas to Arkansas, they may not be received with the same openness.

Second, there is the issue of economic realities and very strong support for one industry versus another industry, or a feeling of pride amongst enforcement agencies or regulatory agencies that they do it better than the other fellows.

Third, there is the whole factor that cooperation often means giving up some autonomy.

When you put that all together, we have a system which is making tremendous progress in many areas of highway safety and tax collection.

You will recall that we were up here not long ago talking about the need for the Congress, and for this Committee to hold the governors to their earlier promise. You know, it was some years ago that this Committee promised us, that after the National Governors Association did their study, that the collection of taxes would be simplified. It was some years ago Congress promised us that the inspection of trucks would be simplified through CVSA.

Well, in some States, that cooperation has worked out very well. And in others, the promise is still there, but the fact has not arrived.

I agree with you. We need cooperation among the States. It is the only way it is ever really going to work. We need a little encouragement from the Congress to make sure that the responsible State officials keep their eye on the ball and keep their commitments to this Committee.

Senator EXON. Thank you.

Mr. Bergoffen, do you have any comment on that?

Mr. BERGOFFEN. I believe that the Commercial Vehicle Safety Alliance is a good framework for resolving those issues. We support that organization fully. They are working hard at it, and I would agree that a little push forward from Congress would move that effort along as well.

Senator EXON. Thank you.

I may have some other questions for the record, but that is all I have now.

Senator Burns.

Senator BURNS. Thank you, Mr. Chairman.

I like that competitiveness among States. I went to school at the University of Missouri, and I am satisfied, especially in football, that Will Rogers has never met some of the coaches in the Big Eight.

I say that even though I represent Montana.

I want to ask a couple of questions here for my own information and to clarify some things.

I was concerned about your comments on containerized shipments and how maybe in instances these containers are overweight and these type things.

I guess my first question is can the trucker turn down the load if he is overweight or unsafe?

Mr. DONOHUE. There are three answers to that question.

Number one, he certainly can turn it down. But, trucking is in a highly, highly competitive circumstance, and the shipper can say to the trucker, "If you don't want to take it, this other fellow will." That is one problem.

Number two, often the trucker does not know that it is overweight. He pulls up. The chassis is provided not by him, but by the port, for example. The container is put on the chassis.

He gets a clue when the front wheels of his tractor start raising a little bit off the ground.

Senator BURNS. I would imagine so. Yes.

Mr. DONOHUE. The third question is there is that economic feeling that because it is later in the afternoon, he can get it out of the port, down the street, and delivered——

Senator BURNS. And get around the scales.

Mr. DONOHUE [continuing]. And get around the scales. Yes.

The problem is that the driver takes all the responsibility. He takes all the risk to life, health, and being ticketed. The shipper, particularly the international shipper, has no risk. The heavier the freight, it does not matter. He just sends it over and nobody does anything about it. They are going to deliver it.

The Senators will remember that we talked about this issue. We suggested to FHWA a year and a half ago, that there may be an overweight problem. FHWA said they don't think so.

When they studied the bills of lading, which lie some, they found that 30-some percent of the containers were overweight.

Well, if you weighed them, you might would find 50 percent of them are overweight. Senator, we are not talking about 3 percent or 5 percent, from humidity or ballast. We are talking about 30 percent, 50 percent, 60 percent, 100 percent, and 150 percent overweight.

When you get that kind of situation, we need to pursue it further.

I am telling you that we will significantly improve safety on the highway and we will do something for our international competitiveness.

Why should we let those guys ship it in here in a situation that enables them to compete unfairly with American producers?

Senator BURNS. I am assuming, then, when those containers come off ships or wherever, they are loaded, and there is no notification on that container of the weight of that container.

Mr. DONOHUE. No.

It's very interesting what happens.

Suppose you are from Rotterdam and you are going to ship beer in here. You don't put the weight on the individual container, be-

cause the ships do not charge by the container's weight. They charge by the bulk.

Senator BURNS. That's right.

Mr. DONOHUE. So, what they do is give a combined manifest that indicates these 29 containers weigh the sum amount of so much.

But individually some will be overweight and others will be underweight.

What I would like to do is see us weigh each one when they come off the ship. It is very easy. Then we'll just call the foreign shipper and indicate there are three things he can do: He can come and get it; or we'll let the ILA open it up and put it in separate containers; or, third, we can move it at 3:00 o'clock in the morning under a special permit with a special chassis, and it will cost $1,000.

I think we will get their attention.

Senator BURNS. Into another area, and I think we are dealing principally with safety here.

I would be interested in your attitude on running triples.

Mr. DONOHUE. Well, 11 states operate triples and 38 States now allow 53 foot trailers. They have come into the industry because they have been demanded by the shippers and by the private carriers who are often shippers themselves.

In many instances, they have been demanded for very legitimate reasons.

Most triples and 53-footers do not weigh very much. They are filled up with products, like empty tin cans, and pillows, and cereal, things that take a lot of bulk but not a lot of weight.

So, where triples make sense; where they are easily accessible to a producer; and where can they easily get on and off the main road, and where can they be operated safely, we ought to give them very serious consideration.

There is nobody who wants to operate triples in downtown New York. That is just insane.

But there are some places where it makes a lot of sense, and I think it is something we ought to look on favorably.

I should tell you what it is that was just handed to me, if you are wondering. Somebody brought me a note.

Right now, it is 36 States that allow 53 footers. Of course, by the time we get out of here, it may be 38, or it may be 35. I am not really sure.

Senator BURNS. I'll tell you one thing. The only time I get really excited is on single lane highways in a snowstorm. I'll tell you that I just don't know what we are going to do about that.

I guess as I get older, I am not as risky as I used to be on the highway.

Mr. DONOHUE. There is one thing you should know, sir. The one advantage to combination vehicles is that they have the very best drivers.

Senator BURNS. I think that is true.

Mr. DONOHUE. Let me tell you what this clarification was. Thirty-six States that allow the 53 footers. The triples are mostly operated in the Western States.

Senator BURNS. I have a comment, I would imagine, more than a question.

I don't know whether you are familiar with Wayne Wagner or not, out in my home town. He is a fairly sizeable independent trucker out there.

He has come up with an idea and is working with it. I want to get your comment on it, as far as training of drivers. He has now opened up dialogue with a small college, Rocky Mountain College, there in Billings. In other words, he will be training drivers, but he does it in a college environment—you know, on campus.

Mr. DONOHUE. Yes, sir. I am very familiar with that.

Senator BURNS. I just think it is a whale of an idea because I happen to believe that dollars are well spent in training, in employee training, and not just the ability to drive the truck and to handle the truck, but the ability to deal with some paperwork, and also with every day life—I mean, if it is a little accounting course that went with it—you know, to round that person out and maybe expose him to an area that in this operator's life he may never have been exposed to before.

I would like to have your comment on that because I think that idea needs pursuing. The more I look into it, the more I am really a fan of it.

Mr. DONOHUE. I am very pleased to comment on it.

This industry is faced with a very significant problem in the emerging years, of a shortage of drivers. It is not because of anything the trucking business has done. The potential drivers weren't born.

The U.S. will witness a decrease of the 3 percent annual growth in workforce to less than 1 percent. So trucking will have to look every place it can for new drivers.

The second problem is that all this new safety legislation will put a measurable group of people off the road.

Where are we going to get the drivers? We have to get drivers that can run computers, can handle the paperwork, and can meet all the new safety requirements.

I think that the best education that we can give them is in our interest.

Now, we have another little problem. The fellows or ladies that would normally go to a junior college or a community college, are 19 or 20 years old, and they cannot drive until they are 21.

Now, I am not saying we ought to have them drive at 18. But we have to look at how we can capture the interest of young men and women who would like to go into this career while telling them they have to wait till they are 21 to drive.

We may need some training programs and some apprentice programs.

To operate a truck 10 years from now, 5 years from now, drivers are going to have to be able to run a computer, run a satellite tracking operation, deal with all of these regulations, and take care of emission problems and measurements. In fact, Senator, we may be looking for some of those lawyers that we were talking about a few minutes ago to handle the job.

Senator BURNS. God forbid.

Mr. DONOHUE. But I would encourage those programs. We have encouraged them. We cooperate with them. We are very interested

in anything we can do to upgrade and attract people to this business and then retain them.

Senator BURNS. I would just bring to your attention that he has started a dialogue with Rocky Mountain College, and they are very amenable to this idea. That training will be done in that setting. Just like you say, it may expose this operator to an environment which he has never experienced.

Mr. DONOHUE. Well, I'll personally talk to him about it.

Senator BURNS. Call Wayne up.

Mr. DONOHUE. I'll do that, sir.

Senator BURNS. I think it is a tremendous idea. Just like our investment in training, training is every day. I don't care if you are an old hound that has been driving these things for 25 or 30 years. It is an every day thing, to retrain and retrain them. So the investment that we have made in that has been tremendous.

Those are all the questions that I have.

Thank you, Mr. Chairman.

Senator EXON. Thank you, Senator Burns.

Senator Danforth.

Senator DANFORTH. Mr. Donohue, as you know, we provided for uniform licensing of drivers and tests for drivers who apply for licenses, because in the past it was possible in—I can't remember—in 20 States or so to be licensed to drive a truck because you could show up in your passenger car with automatic transmission and drive around in it.

So the idea was that people who were going to be professional drivers should know how to drive a truck.

We did that.

I am told that California has this program in place and that it takes about an hour and a half to complete the total exam, of which about 45 minutes is behind the wheel.

Do you think that 45 minutes behind the wheel in a test is sufficient to determine whether a person is competent or not competent to drive a truck?

Mr. DONOHUE. Yes, sir, I do.

I think if you take 45 minutes behind the wheel, you can go on a congested city street, you can back up, you can enter a freeway, you can accelerate, decelerate, you can change lanes, you can do all of the things that a skilled inspector can figure out in a big hurry if you have the sense of judgment, the sense of perspective, and the physical skills to drive that truck.

Forty-five minutes is probably nine times the amount of time that you spend in taking your automobile test.

Senator DANFORTH. Possibly. I can't remember. It's been a while.

Mr. DONOHUE. That's about 5 minutes. You just ride around. Basically, what you do with the automobile test is you ride around the building. They have a parking place and an in and out arrangement. It takes about 5 or 6 minutes.

In 45 minutes, you cannot hide your incompetence, if you are incompetent.

Senator DANFORTH. Therefore, you believe that the testing process is sufficient and that standards for training itself are not necessary?

Mr. DONOHUE. First of all, if I could, I would say something else about the testing process. I think it is not only the driving. The fact that before they drive, we require the candidate to show how to do the pre-trip inspection—which, by the way, a lot of them were failing, with air brakes and other things. The pre-trip inspection and the written test give us what amounts to performance standards.

We have a de facto standard. We say if Mr. Jones comes to get a driver's license in California, he must demonstrate (1) his knowledge of the vehicle and the law, (2) his knowledge of the vehicle and its preparation for a trip, (3) his knowledge of brakes and safety things, and (4) he must demonstrate his ability to drive, in a strenuous driver's test.

That is a performance standard.

Now, the question that has been raised of whether there ought to be standards for driving schools—and, remember, they are not only professional driving schools, but many of the larger companies train their own drivers—which is a design standard, mandating what is expected in the training of drivers.

I think this industry recognized some time ago with the formation of the Professional Truck Driver Institute and the expenditure of more than $1 million of our own funds that there should be better professional training for a truck driver.

We announced some months ago that eight major truck driver training institutions—and they had many locations, so it is not just eight locations—had agreed to these voluntary standards. We are now in the process of getting the next group of schools to come in to these standards.

We expect and I can assure you, that many of the companies that were involved in supporting this process will bring their own truck driving systems or training systems into compliance with these standards.

I think we have an industry process underway that is supported by everyone, including the owner-operators. We ought to give that initiative some time to take hold, and then evaluate it. We ought to measure what happens to those trained candidates who take the performance test, dictated by the driver's license.

I think we are moving in the right direction. I think your staff has been particularly helpful. I think, in the last analysis, we will have strong design standards and very, very strong performance standards.

Senator DANFORTH. They believe that there should be standards for the driving schools, and you have a different view.

I was just interested in what your different view was.

Mr. DONOHUE. My point, Senator, is we are moving very aggressively with the Truck Driver Institute. If we put in the legislation today, or yesterday, a provision that says we're going to have a national government standard, then all the schools we are trying to pull into the PTDIA system would figure out that they could avoid PTDIA certification right now and maybe not participate.

If we are not successful working together with the FHWA and with our own volunteer system, in getting the schools to cooperate I will come here and you and I will figure out a way to do it.

Senator DANFORTH. What percentage of truck drivers are now in this program?

Mr. DONOHUE. I think it is a very small percentage.

Senator DANFORTH. Is it 5 percent, something like that?

Mr. DONOHUE. Probably—of the new drivers.

I think we would probably multiply the number—not add to it—over the ensuing months, 6, 7, 8, or 9 months. We are about to certify another group of schools.

Another question you would have to ask sir, is what percentage of the truck drivers go through the schools. That is a very small percentage.

Lots of them are trained by companies. Lots of them are trained by their brother-in-law. Lots of them are trained by others.

We are not objecting to defining standards. We are trying to figure out a way to work it out and not to dilute the tremendous industry effort and expenditure that has already gone into PTDIA. And I appreciate your help on that matter.

Senator DANFORTH. Let me ask both of you one other question, and it is on this drug free zone idea.

Is that a good idea? Would that make a significant contribution to safety, in your opinion?

Mr. DONOHUE. Well, Gene may know a lot about this. First of all, many truckers don't use truck stops, depending on the type of business they are in. But if somebody sells drugs to somebody in the inner city, or in my neighborhood, and then goes home and sits in front of the fireplace and snorts up some drugs, it creates a terrible personal and family dilemma.

But if somebody sells drugs at a truck stop to somebody that is about to get into a truck that weighs 80,000 pounds and drive it across the country, I think the penalties should be more severe. I think we ought to crack down on them and throw in jail.

Senator DANFORTH. Do you think that that would have an effect? It would seem that it would. But do you think it would or not?

Mr. DONOHUE. Well, you know, if you study economics, if you increase the supply, often the demand goes up. I think if we reduce the supply, the demand will go down. I think it would have an effect, and I would encourage you to vigorously pursue it.

Senator DANFORTH. Mr. Bergoffen.

Mr. BERGOFFEN. Yes, I agree with that. We agree. It would be a strong warning.

But, of course, this alone is not going to do the job. A total framework of drug testing, of drug followup, of training, of concern, the whole system is needed. But the drug free zone would be a good part of that whole system.

Senator DANFORTH. May I just ask one other question, Mr. Chairman.

Senator EXON. Go ahead, Senator Danforth.

Senator DANFORTH. Clearly—this goes back to an old subject—but clearly, drug testing, including random drug testing, is the essential ingredient in an anti-drug program in transportation. Isn't it?

Mr. DONOHUE. Well, sir, we have seen the Supreme Court just recently speak in a positive way about the DOT's ability to require such drug testing in matters where safety is involved.

We have vigorously supported testing on hiring and testing for cause. We have supported roadside random testing. Our concern has always been equality and equity.

I think, as we watch the television in Washington and around the country, the society is getting more and more in the mood to do something about drugs. I think, together with this Committee and others, we are going to have to face up to the testing issue.

Senator DANFORTH. Clearly, it is the essential ingredient, isn't it?

Mr. DONOHUE. Well, I think those who have studied the drug problem recognize that there is no way to interdict all the drugs coming into the United States. You cannot stop it. You have to dry it up at the consumption level, and you have to make it very, very expensive to use.

Senator DANFORTH. So the testing is essential.

Senator EXON. As a nonlawyer, I would remind Senator Danforth not to lead the witness.

Mr. DONOHUE. Senator, this witness is trying to be led very carefully.

Senator DANFORTH. All right, then.

Tell me whether or not, in your opinion, random testing is essential.

Mr. DONOHUE. Excuse me, sir, but in my opinion—what?

Senator DANFORTH. I was asking my question in a nonleading form.

Mr. DONOHUE. Senator, one of the problems that we have is that ATA's policy covers drug testing to the point of an unfettered, random testing. We do not have a policy that supports mandatory random testing.

I will tell you that it is my judgment that the societal trends and the problems in this country are going to lead ATA to reconsider that policy.

Mr. BERGOFFEN. I would like to add that we just addressed this at our annual meeting last week. NPTC does support mandatory random testing. Many of our members do use it currently, and we seek at least the authority to provide for and protect the random testing process.

Mr. DONOHUE. You see, our concern is for mandatory random testing. There are many companies who would like to do it, right now, today. My major concern, if I could remind Senators, is that 90-some percent of the trucking companies in the United States have six or fewer trucks. So how do we random test?

As a matter of fact, I have had some discussions of late with the Department of Transportation on ways that we could actually do some testing in small companies.

Senator DANFORTH. Well, the legislation that we passed last year provided—what—is it three or four States?

Mr. DONOHUE. That's right. That would be good to test it out.

If I could make one more comment, when you talk about testing railroad and airline people, you talk about a total of 91,000 people. When you talk about truck drivers, you are talking about 3 or 5 million.

We have to find out what is the percentage that we would test each year. Is it 50 percent or 25 percent? I don't know.

What we need is some fine tuning and some consultation. I think we are moving in the right direction.

Senator DANFORTH. Thank you, Mr. Chairman.

Gentlemen, thank you very much.

Senator EXON. Thank you, Senator Danforth.

We uncovered a major problem just before you came in that I wanted to alert you to. In my questioning of Mr. Donohue, I asked him about complaints that we had had about the complicated driver testing program, and Mr. Donohue indicated that it probably would have been easier for lawyers in the State Houses to pass those tests than the truck drivers. This led me to observe that the most dangerous thing we possibly could do would be to have lawyers become truck drivers.

I am sure, as a lawyer, that you would agree.

Mr. DONOHUE. We are talking about the written test only now, Senator.

Senator EXON. Thank you very much.

We will stand in recess temporarily. There is a vote on. Then we will call the next witness panel.

I would ask the rest of the witnesses to please include your testimony in the record. Then we will move along.

Many of the questions will be for the record. Since we have a very time consuming and very important hearing, we want to give everybody a chance.

We stand in recess until we can go over and vote and come back.

[Brief recess.]

Senator EXON. The subcommittee will please come to order.

We apologize to the panels, and especially to the next panel for this delay.

Panel two consists of Mr. Douglas Turner, Chairman of the Safety Committee of the American Bus Association; Mr. K. Michael O'Connell, Counsel for the Owner-Operators Independent Drivers Association of America; and Mr. R. V. Durham, Director of Safety and Health, International Brotherhood of Teamsters.

Welcome to you, gentlemen. Your full statements, as prepared, without objection, are incorporated into the record. We thank you for that, and we will now ask for you to do a summary. Then we will go to questions.

We will start with Mr. Douglas Turner.

Welcome, Mr. Turner.

STATEMENT OF DOUGLAS TURNER, CHAIRMAN, SAFETY COMMITTEE, AMERICAN BUS ASSOCIATION

Mr. TURNER. Thank you, Mr. Chairman.

Mr. Chairman and Members of the subcommittee, my name is Douglas Turner. I am Chairman of the American Bus Association's Safety Committee, along with being Director of Safety and Personnel for Bonanza Bus Lines, which is located in Providence, Rhode Island.

It is a pleasure to be here today and have the opportunity to convey the feelings of the American Bus Association concerning motor carrier safety, in particular the proposed legislation, but also several items contained in earlier acts.

The American Bus Association represents nearly 700 bus operator members throughout the United States. Our members provide passenger transportation through regular intercity routes, charters and tours, and express airport and commuter bus service.

Turning to the Motor Carrier Safety Act of 1989, S. 819, one of ABA's prime concerns is to promote the highest degree of safety standards possible for travel on our Nation's highways. As an indication of this philosophy, we require that operators secure and maintain a "satisfactory" safety rating from the Federal Highway Administration as a condition of membership in the association.

For this reason, we are in favor of section 2 of the proposed act, with one reservation. A 12-month timespan for the Secretary to conduct a reassessment of a carrier's unsatisfactory safety rating is too long; we feel that the carrier could easily become extinct within that timeframe.

We would suggest that a 6-month period would be more reasonable, especially if during the original assessment some factor may possibly have been overlooked.

It is along these same lines in section 3 that we encourage the development and submission of operational guidelines by specific dates to take action against carriers which pose imminent hazards to safety on our highways. Despite the fact that this authority was given in the Motor Carrier Safety Act of 1984, DOT has yet to implement its use.

We fully agree that if a particular carrier is a threat to the safety of those individuals utilizing our highway system, every step should be taken to suspend that carrier's operation.

Our society is well aware of the impact that drugs are having on our way of life. ABA fully endorses the measures provided for in section 4 of this act to make truck stops drug free. We realize that truck stops have a reputation for being a source of easy drug purchases and distribution.

A driver using drugs, travelling on highways, is risking not only his life, but the life of every other man, woman and child who is sharing the highway with him. The most severe penalties must be established and enforced to close down easy access to commercial motor vehicle drivers where they are most likely to congregate.

We welcome the provisions of section 5 regarding the braking systems of commercial motor vehicles. Any action to improve the safety of a particular item in a vehicle should always be looked at in a favorable manner.

However, we do want to caution that whatever recommendations emerge give serious thought to the practicality and effectiveness.

For instance, antilock brake systems must be 100 percent perfected before their use is required by law. It has been reported that several years ago, an antilock brake system was activated by a homeowner's automatic garage door opener. This industry cannot afford premature judgment calls.

Further, we are not aware of any outstanding brake issues dealing with intercity buses and wonder if perhaps we would be attempting to fix something that is not broken.

Regarding section 6, which deals with pay increases for FHWA inspectors, we are convinced that the responsibility which lies with these inspectors certainly warrants increases commensurate with

their expertise. These individuals are the "checks and balances" of enforcement toward a safe commercial motor vehicle system. Paying for quality will be an incentive to these inspectors to enforce DOT regulations to achieve safer commercial motor vehicle traffic.

Section 7, dealing with timely corrections of safety violations, is consistent with our feelings that if there is a safety deficiency, then let's get it taken care of before something happens to jeopardize an individuals' health and well-being.

We encourage random checks of previously reported vehicles placed out of service to protect the motoring public. We would hope, however, that the costs of a follow-up program remain reasonable so that MCSAP funds needed for inspections and other functions are not diverted.

Because we do carry passengers, rather than freight, we, once again, respectfully request that random bus inspections be done keeping passenger inconvenience to a minimum. For instance, we suggest that they be conducted at rest stops or destinations, rather than roadside.

We agree that steps should be taken to insure compliance with Federal Motor Carrier Safety Regulations, especially when serious safety violations occur.

Section 8 would speed up operational procedures to safeguard movements of commercial motor vehicles. The ABA supports this provision of the act, once again, reiterating our basic goal to achieve the safest possible bus system.

Mr. Chairman, I would like to offer several comments, as you requested, on legislation enacted in past years.

The Motor Carrier Safety Act of 1984, in response to our strong urging, mandated coverage of private, not-for-hire carriers of passengers under the Federal safety regulations—at least when these carriers were engaged in interstate commerce. Since 1984, we all but begged FHWA to implement this mandate. Unfortunately, no regulations were issued.

Finally, two months ago, a notice of proposed rulemaking was published. Comments are due on June 19. We would hope that you will join us in calling for a final rule to be issued without further delay. We believe it is long overdue and much needed.

The commercial driver license, called for in the Commercial Motor Vehicle Safety Act of 1986, provides a happier story. DOT has met every deadline required, reaction from the States seems to be positive, and licenses are being issued.

Those of us so strongly in support of a single, commercial driver's license are anticipating the entire system being fully on-line.

Mr. Chairman, I sincerely thank you for allowing me to speak before you today on behalf of the American Bus Association. I would be pleased to address any questions which you may have for me.

[The following information was subsequently received for the record:]

ABA
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June 15, 1989

Senator Ernest F. Hollings, Chairman
Committee on Commerce, Science and
Transportation
United States Senate
Washington, D.C. 20510-6125

Dear Senator Hollings:

In response to your letter of June 7th, it's a pleasure to supply additional comments to help complete the hearing record regarding Motor Carrier Safety.

Over the years, the American Bus Association has attempted to stress at numerous hearings that the bus industry has an identity problem. Consistantly, buses are lumped together with trucks in the classification of commercial motor vehicles. That's fine, but only to a limited extent. We may be similar but we are not the same and that's where the crux of our safety problems begin to emerge. Briefly, I would like to provide you with some examples.

The creation of the Commercial Drivers License (CDL) Program is a tremendous step forward. Where there was acknowledged wide-spread abuse by truckers in obtaining multiple licenses to hide violations, bus operators in several New England states were forced to obtain multiple licenses to pickup and discharge passengers. This problem is now beginning to fade away.

Yet with the CDL comes a peculiarity for the individual who wants to drive a bus. Within the proposed written test, which each person must take to obtain a CDL, are questions regarding trucks which an experienced bus driver wouldn't have the slightest idea how to answer. A distinct disadvantage which could lead to a veteran bus driver not obtaining their CDL.

Another example would be the logging of "off duty" time on the drivers log. Regulations require that (395.2(4), "All time, other than driving time, in or upon any motor vehicle except time spent resting in a sleeper berth as defined in paragraph (g) of the section" shall be considered as "on duty" time. That's fine for trucks, but the ideal place for a bus driver to relax and stretch out in peace and quiet is in his bus. I'm sure you can realize this if you put yourself in the place of a bus driver taking a group to a sporting event. The quietest place is back in the parking lot in the comfort of the bus.

Existing regulations as written are focused primarily toward truck safety issues. The uniqueness of the bus is overlooked.

As I pointed out in my testimony on April 19, 1989, ABA fully supports any and all efforts to promote the safest possible transportation of passengers. We encourage the upgrading of the enforcement of regulations and inspections. This leads me to another area where the uniqueness of a bus is unintentionally falling into a crack in the system.

We've respectfully suggested that for passenger convenience, that "roadside" inspections of buses be conducted at areas where the passenger's comfort can be addressed. Shelter from the elements and rest rooms should be a primary concern. Obviously, the most ideal situation for this is at the groups destination or meal stop.

Once the inspection procedure is initiated it should be done with consistant thoroughness and conformity to regulation. Unfortunately, the bus poses a problem unlike a truck so far as getting underneath it to inspect brake linings, air lines and other safety items. Now the inspection has turned into only a skin deep overview and because of that lives could very well be jeopardized.

This matter of a valid bus inspection is further intertwined because of reciprocity between states on the vehicle inspection. The Commercial Vehicle Safety Alliance (CVSA) sticker cannot be given to the vehicle because the bus was not and could not be inspected properly. Now the bus travels into another state and is liable to be subjected to another "skin deep" inspection because of the same problem of accessability to the underside of the bus. Once again, our similarities as a commercial vehicle pose obstacles because of our distinct differences.

These are a few of the main concerns that we at ABA presently have toward highway safety as it relates to our uniqueness as bus operators. I would like to take one more moment of your time to propose an idea that might have merit in assisting various Federal and State transportation agencies in the education and enforcement of safety regulations.

We are all well aware of current and proposed future budget restraints. Perhaps an outreach program to coordinate efforts which for the most part are already being duplicated and likely triplicated by Federal and State DOT offices, CVSA and insurance

company safety engineers to conduct inspections and monitor compliance with regulations. Interaction between these safety responsible organizations should lead to more available time for precise, in-depth audits and inspections. This can only result in a safer transportation system.

I am aware of at least one situation where a particular insurance company's safety engineer walked into one of their insureds offices and found violations which were not discovered by a DOT inspector who had just completed an audit. These voids in the system must be prevented.

The American Bus Association was and remains very pleased to see the concept developed and implemented of Bus Coordinator for the Federal Highway Administration's Office of Motor Carrier Standards presently held by Susan Petty. If there is any input needed to help guide FHWA in reshaping regulations or procedures to bring the uniqueness of the bus industry into its proper perspective, ABA would be eager to assist in achieving these goals.

I appreciated this opportunity to elaborate further on several safety issues which we feel currently confront the bus industry.

Sincerely yours,

Douglas R. Turner

Douglas R. Turner
Chairman, American Bus Association
Safety Committee

DRT:lpl

Senator EXON. Thank you, Mr. Turner.
Mr. O'Connell.

STATEMENT OF K. MICHAEL O'CONNELL, COUNSEL, OWNER-OPERATORS INDEPENDENT DRIVERS ASSOCIATION OF AMERICA, INC.

Mr. O'CONNELL. Thank you, Mr. Chairman.

Mr. Chairman, Members of the Committee, and Committee staff, my name is Michael O'Connell, and I am Counsel to the Owner-Operators Independent Drivers Association of America.

OOIDA is the national trade association representing the interests of the Nation's more than 350,000 independent truck owner-operators. Owner-operators are small businessmen and women that operate class 7 and 8 trucks and small truck fleets in interstate commerce, and they are responsible for about 40 percent of the intercity truck traffic in the country.

We have two specific comments on the Motor Carrier Safety Act of 1989.

First, we recommend that the current language contained in the provision regarding unsatisfactory safety ratings be changed, and that disqualification be based on the posing of an imminent hazard by the carrier, as opposed to an "unsatisfactory" rating.

The reason that we express that view is because an owner-operator and small fleet operate on a relatively thin cash flow. Waiting 12 months for a reinspection or a reassessment of their safety rating would effectively put these carriers out of business, and for many large carriers would do the same.

Also, disqualification for an unsatisfactory rating is a harsh penalty when one considers that an unsatisfactory rating can be based on relatively minor violations. The association believes that, given the penalty, the enforcement officials may be reluctant to assess such a rating, even when it is warranted, because they do not want to put the carrier out of business. As a result, you would have some carriers that skate by.

As the association that initially discussed with this Committee the problem of drug trafficking at the Nation's truck stops, we are pleased to see the provisions regarding increased penalties for those who are distributing or who are possessing with the intent to distribute controlled substances at truck stops.

However, the penalties alone miss the point. The penalties are great, but they must be accompanied by strict enforcement.

Drug distribution occurs at truck stops not because truck drivers are present, but because there are largely unsupervised areas.

In a recent sting operation in the State of California, some 130 people were arrested at a truck stop for drug involved crimes. Eighty percent of them were not truck drivers. The reason truck stops are used is they are very convenient distribution points, and it is virtually impossible to get caught.

Drugs are being sold at truck stops over the CB radios, and they are also being sold at rest areas. We would suggest to the Committee that it expand the current language to include rest areas and that you get the Federal Communications Commission involved in the enforcement activities. The FCC could set up a monitoring

device at virtually any truck stop in the country and pick up discussions regarding the sale of drugs.

We believe that that is a very effective way to shut off drugs, not only in the commercial trucking industry, but to stop the distribution of drugs through truck stops that are used as transshipment points.

Our association takes serious exception, however, to the finding that drug use in the trucking industry represents an "enormous threat" to public safety. That statement is contrary to any available evidence.

The International Brotherhood of Teamsters tested more than 25,000 drivers under the National Master Freight Agreement, and found that less than 0.2 percent tested for the use of controlled substances.

In addition, I might add that the study recently released by the National Transportation Safety Board, also indicates that drug use in the commercial trucking industry is far less than in the population generally. OOIDA as an association, is offended by any statement that characterizes truck drivers as drug users. Truck drivers are, in fact, responsible people. Everything that we sit on, wear, eat, drive, and use travels by truck, and it arrives safely.

The association also, obviously, adamantly opposes the legislation that mandates further drug testing.

OOIDA wishes to put forward its own safety agenda and ask this Committee to consider three additional safety concerns.

The first was highlighted by Mr. Donohue, that of unsafe and overloaded truck equipment originating at container ports, and also we would add at rail heads, in piggyback trailers.

OOIDA has received consistent reports from its members that trailers used to transport the containers, and piggyback trailers themselves, are poorly maintained and unsafe, particularly lacking in brakes, lights, and tires.

Add to that an estimated more than 1 million overweight containers per year and you have a recipe for disaster, and that disaster is occurring out on the highways.

The problem must be addressed at the Federal level. There is hot competition among ports for container traffic, and the ports are increasingly willing to grant overweight permits to the trucking operations within the ports.

Enforcement activities must be directed at the owners of the equipment.

As FHWA's authority currently exists, it can catch drivers who have left a terminal with an overweight container or with an unsafe piece of equipment. These drivers sit in line for 2 to 3 hours, waiting to pick up a chassis with their power unit, and then to have a container loaded on it. If they refuse an unsafe piece of equipment, they are either put back at the end of the line to wait an additional three hours (and hope that the equipment that they receive the second time is better), or, in fact, they are expelled from the port facility for having raised the issue in the first place.

The shipping companies know full-well that the equipment is unsafe. When an owner-operator picks up the equipment or picks up an overweight container, they are frequently paid what is known as a "scale fee" by the port operating companies. The scale

fee is $40 to $50 per scale that the owner-operator is willing to circumvent in order to avoid the detection of the overweight container.

The port operating people are well aware of this condition. In fact, they foster it.

So we believe that any activity that is directed toward enforcement must be directed at the owners of the equipment themselves.

I would also like to highlight briefly the problem of inadequate rest areas. Existing rest areas are inadequate and overcrowded, especially in the Northeast corridor. This situation has created great difficulty with drivers complying with the hours of service regulations because they simply have no place to park their trucks to take their proper rest periods.

In addition, many States have 2-hour restrictions on the use of rest areas, and that is inconsistent with the 8 hour continuous, uninterrupted rest period the drivers are required to take.

Further, a number of State enforcement officials have began using these rest stops as places convenient to do truck inspections, further disturbing the truck drivers who are attempting to get their proper rest. So that makes it very difficult to comply with the hours of service regulations.

Lastly, I would like to highlight the area of brake safety. Improper brake adjustment is a leading equipment safety problem. It is not an issue in passenger car braking systems because passenger cars come equipped with automatic slack adjusters. These devices are largely unavailable on commercial vehicles. However, if they were available, would contribute greatly to highway safety improvements.

We believe that the Committee should consider a Federal requirement that automatic slack adjusters be installed on all new commercial vehicles, or make the current adjustment components more available and accessible to the truck driver so that he or she can keep the brakes in adjustment. This area offers more potential for safety improvement than focusing on an exotic technology, such as antilock brakes.

I see that my time is up. Thank you.

[The statement follows:]

STATEMENT OF THE OWNER-OPERATORS INDEPENDENT DRIVERS ASSOCIATION OF AMERICA, INC.

Mr. Chairman, Committee members, Committee staff, my name is Michael O'Connell and I am counsel to the Owner-Operators Independent Drivers Association of America, Inc. ("OOIDA" or "Association"). OOIDA is the national trade association representing the interests of the nation's more than 350,000 independent truck owner-operators. I am also pleased to report to the Committee that a study conducted jointly by the California Highway Patrol and Public Utilities Commission indicates that independent owner-operators are indeed the safest group of truck drivers. 1/

Owner-operators are small business men and women who own and operate individual class 7 and 8 trucks and small truck fleets. Collectively, owner-operators are responsible for approximately 40% of the intercity truck traffic in the United States. They engage in the transportation of commodities exempt from the regulations of the Interstate Commerce Commission ("ICC") or lease their equipment and services to private and for-hire motor carriers. As small business men and women who operate an average of more than 90,000 miles per year and spend in excess of 300 days per year on the highway, owner-operators are vitally interested in highway safety.

THE MOTOR CARRIER SAFETY ACT OF 1989

OOIDA has several specific comments on the Motor Carrier Safety Act of 1989. In general, the Association is concerned with the overall increase in complex regulations that have proliferated in the trucking industry over the past 10 years. The regulations have made truck driving an increasingly unattractive vocation for experienced drivers, leading to their replacement by less experienced (and less safe)

1/ At the request of the California state legislature, the California Highway Patrol and California Public Utilities Commission jointly completed an analysis of safety violations and accident data from the State of California for a four year period. The study addressed the question: "Are Owner-Operators Disproportionately Responsible for Unsafe Operations:" and concluded

> "[W]e cannot conclude that owner-operators have a negative effect on overall highway safety. In fact, they appear to be safer than the average carrier in California."

Joint Legislative Report, Public Utilities Commission and California Highway Patrol, "Final Report on Truck Safety," No. AB2679, (October 1987) at 2.12 - 2.14 (emphasis added). Relevant portions attached hereto.

drivers. OOIDA urges the Committee to impose new regulations only where there will be a clear and demonstrable safety benefit.

Safety Ratings

OOIDA supports the proposed changes regarding motor carrier safety ratings. However, the Association is concerned with the provision which states that motor carriers receiving unsatisfactory ratings shall be prohibited from operating commercial motor vehicles until a conditional or satisfactory safety rating is achieved. The immediately preceding section [Section 2(a)(2)] provides that the Secretary shall conduct a reassessment within twelve months of receipt of a request for such. The severity of the penalty for an "unsatisfactory" rating could well deter enforcement officials from issuing such a rating even when justified.

Motor carriers can receive an unsatisfactory safety rating for relatively minor technical infractions. For most motor carriers, anything approaching a twelve month delay would simply mean that the carrier is forced out of business. Under such circumstances, the Association believes that it is grossly unfair to prohibit the carrier from operating based wholly on the bureaucratic inertia resulting from the inability of the Department of Transportation to reassess the rating in a short time. As an alternative, the Association suggests that the provision be amended to require that carriers whose operations present an "imminent hazard" to safety be prohibited from operating commercial motor vehicles until their safety rating is raised to conditional or satisfactory.

Drug Sales At Truck Stops

As an organization that has consistently highlighted the issue of sales of drugs at truck stops, OOIDA is proud to voice its support for substantial penalties for persons convicted of distributing or possessing with intent to distribute controlled substances at truck stops. OOIDA has previously expressed its concern regarding this issue in hearings before this Committee, and in meetings with the California Highway Patrol and others. The Association suggests that the Committee consider extending the penalties to roadside rest areas, and that it also consider inserting a provision regarding offers to sell controlled substances over Citizen's Band radios. However, the Committee misses the point with increased penalties alone.

Truck stops are frequently used as distribution points not because of drug use in the trucking industry, but because truck stops are often remote locations frequented by transient drivers, and with little or no law enforcement. They are in essence "safe havens" for drug dealers. Truck drivers are frequently the victims of crime at truck stops rather than the beneficiaries. In order to adequately address this issue, there must be a greatly increased emphasis on law enforcement at truck stops, possibly involving the Federal Communications Commission. OOIDA offers its support to law officers in any enforcement efforts that might be undertaken to help combat these problems.

While the Association fully supports substantial penalties for drug sales at truck stops as well as greatly increased enforcement, it takes serious exception to the finding of Congress that "the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways." To the contrary, the only reliable source for measuring drug use among commercial motor vehicle operators is the experience of the International Brotherhood of Teamsters ("IBT") under the terms of the National Master Freight Agreement. After testing more than 25,000 drivers, the IBT found that .02% of all drivers tested positive for drug use. This level is several orders of magnitude lower than the level presumed for the population generally (6.5 - 7.5%), and certainly does not warrant the denigration of the entire occupation.

As individuals who must share the road with any drug or alcohol impaired drivers, OOIDA fully supports measures to get them off the road. However, such measures must be consistent with the constitutional rights of drivers. Similarly, OOIDA opposes the passage of S.561. The rights of drivers must not become the first victims in the war on drugs.

OOIDA'S SAFETY AGENDA

The Association also asks this Committee to consider a number of other areas in which safety improvements can be achieved.

Truck Operations Around Port Facilities and Railheads

Over the past two years, OOIDA has heard from a large and growing number of independent owner-operators involved in truck operations in and around container handling facilities at the nation's ports and in piggyback and container operations at

railheads. These owner-operators consistently report and document the deplorable condition of the trailers utilized to move ocean shipping containers on the nation's highways. These trailers are owned and operated by various interests within the port community (including railroads and shipper groups), but are pulled by power units owned by independent owner-operators. Owner-operators report that the trailers are frequently poorly maintained, particularly their brakes, lights and bad tires. No matter how safe the power unit, the vehicle cannot be operated safely if there are no brakes or lights on the trailer.

To worsen this condition, a large number of ocean shipping containers come through or go out of our ports at weights that (combined with the truck) are well in excess of legal weight limits for commercial motor vehicles. Add an overweight container to an unsafe trailer and you have a recipe for disaster. In addition to the safety concerns, the large number of overweight containers and piggyback trailers causes serious deterioration of highways and bridges. These vehicles travel extensively on highways all over the country, not just in port areas.

The problem of overweight containers and piggyback trailers is unlikely to be dealt with effectively absent federal action. Generally, both foreign and domestic shippers load containers and piggyback trailers in unsupervised conditions. Shipping rates are based on a per container rate rather than weight of the shipment; thus shippers have a powerful economic incentive to overload containers. The keen competition among ports for traffic means that it is unlikely that ports (or even port states) will be able to deal effectively with this problem. In fact, some states encourage the practice by granting exceptions to weight requirements for containers. Overweight equipment is further encouraged by the common practices employed by brokers and shippers who pay "scale fees" to drivers to avoid scales.

Unfortunately, the driver who picks up the load is the person who currently bears the brunt of the penalty for these overweight containers. After waiting in line for several hours to pick up a container, an owner-operator is given the option of either taking the equipment and container as he or she finds it or rejecting the load and returning to the end of the waiting line (or being expelled from the facility) while another owner-operator willingly picks up the unsafe or overweight equipment. For this reason, OOIDA urges the Committee to address this problem by adopting an approach that would prohibit overweight or unsafe equipment from leaving the port terminal or railhead facility. As such, fines and penalties could be directed toward the owners of the equipment or toward the shippers that overload the containers in the first place.

The problem of overweight containers is extensive. A recent study by the Federal Highway Administration determined that during a 12-day sample period, 35,190

containers moving through U.S. ports (33.5% of the total) were carrying cargos of weights that could cause the vehicle transporting them to violate federal vehicle weight laws. 2/ Based on its findings during the same the sample period, the FHWA concluded that there would likely have been a total of 1,070,479 potentially overweight container movements during the period October 1987 through September 1988. 3/

Hours of Service

A number of OOIDA members have also raised the problem of crowding and restrictions placed on trucks at rest areas as those issues relate to the FHWA hours of service regulations. Many drivers report that rest areas have become increasingly crowded, especially in the congested Northeast Corridor. Drivers report that in order to park in rest areas or truck stops, they must often be in by sunset. Lacking adequate safe places to park, drivers are forced to park their vehicles on the shoulder when fatigue sets in. Those drivers fortunate enough to find a space in a rest area also frequently find inspectors waking them, as these areas are often used for inspections. OOIDA opposes use of rest areas as inspection points.

In addition to the problem of crowding, a number of jurisdictions place two hour restrictions on use of rest areas. These restrictions are in direct conflict with FHWA hours of service requirements that require drivers to have uninterrupted eight hour rest periods. The Association recommends that the Committee find a means to expand existing rest areas and develop additional rest areas to relieve crowding and to permit drivers to take proper rest periods. Further, the Association recommends that the Committee explore the possibility of using federal incentives to encourage those jurisdictions that have them to drop the restrictions on use of rest areas and cease using them for inspection purposes in order to allow drivers to take proper rest periods.

Improving Brake Safety

The single most significant example of an equipment safety violation in commercial vehicles is the brake system. By far the largest problem in brake safety is

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2/ Federal Highway Administration, Office of Policy Development, Analysis of Port Import/Export Reporting Service (PIERS) "Data to Reveal Potentially Overweight Container Movements on America's Highways," (March 20, 1989) at 5.

3/ Id. at 7.

inadequate or incorrect brake adjustment. While this problem exists with today's braking systems (which are simple to maintain compared to proposed antilock brake systems), the introduction of even more complicated braking systems may well yield less safe equipment. Experienced drivers report that there is very little tolerance in an antilock brake system between optimal efficiency and no brakes at all. In short, brake adjustments of antilock brakes are unforgiving. There is no reason to believe that the introduction of such systems will be accompanied by the necessary increase in expertise in brake adjustment.

Significant safety gains can be made with existing braking systems. The problem of properly adjusted brakes is almost non-existent on passenger vehicles because such vehicles are equipped with automatic slack adjusters. Slack adjustments on commercial vehicle braking systems are accomplished by adjusting the brakes in a relatively inconvenient place (often between axles) while lying on one's back in the elements. As such, brake adjustment that must be performed on the road (under adverse conditions) is not the most cherished aspect of a driver's duty time. The Association recommends that the Committee consider requiring automatic slack adjusters on commercial vehicles. Research should also be undertaken to determine whether brake adjustment equipment on commercial vehicles can be made more accessible.

Motor Carrier Safety Assistance Program

The Association urges the Committee to take a hard look at the current Motor Carrier Safety Assistance Program ("MCSAP"). As it is structured, the program lacks uniformity among the states. To be an effective safety measure, drivers must know and understand the rules. Inspections conducted pursuant to MCSAP lack a meaningful focus and are duplicative. Drivers view them as harassing and frequently encounter multiple inspections on a single trip. Given that the number of inspections that can be accomplished with a given resource level is finite, these multiple inspections mean that other trucks are going uninspected. The Association urges the Committee to find a means for encouraging the states to recognize periodic inspections, such as through the Commercial Vehicle Safety Alliance.

Driver Training of Entry Level Drivers

OOIDA was one of the earliest and strongest supporters of the Professional Truck Driver Institute of America, Inc. ("PTDIA"). This year, that organization has certified the first of what promises to be many driver training courses. For the first

time, fleet managers and safety personnel have a benchmark against which to measure the actual training received by entry-level drivers. PTDIA is an industry-sponsored initiative that is working. Its certification program is based on the tractor-trailer driving standards and model curriculum developed by the Federal Highway Administration.

The trucking, insurance, and driver training industries appear to be coalescing around PTDIA as the best available mechanism for improving driver training. OOIDA encourages the Committee to formally express its support for the PTDIA.

On behalf of owner-operators and the Association, I thank the Committee for the opportunity to appear today to represent their views.

Senator EXON. Thank you, Mr. O'Connell. Mr. Durham.

STATEMENT OF R.V. DURHAM, DIRECTOR OF SAFETY AND HEALTH, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

Mr. DURHAM. Good morning, Mr. Chairman. With your permission, I would like to submit the entire statement for the record and I will try to be brief with a summary.

My name is R.V. Durham. As you are aware, the Teamster's Union represents hundreds of thousands of men and women in the motor carrier industry and the laws that you pass have a significant impact on the safety, health, quality of life, job security and economic well-being of these Teamster members and their families.

It is with this view that I come before you to discuss where we are today and where we would like Congress to help us go in the next few years in terms of truck and bus regulation.

First, Mr. Chairman, Congress has done about as much as it can for now to regulate commercial drivers' behavior. We now have drug testing, stringent new alcohol regulations, new licensing requirements and new disqualifications for serious traffic violations. It will be a few years before we really know what impact these changes will have on motor carrier safety.

Meanwhile, I suggest that you turn your attention to the other parts of this complex motor carrier safety puzzle and that is the equipment, the motor carrier management and the shipper. Mr. Chairman, the OTA reports that around 40 percent of all trucks have safety defects that would warrant taking them out of service. OTA estimates that three-quarters of the brake problems could easily be found and fixed by normal maintenance. We believe that these are clear symptoms of poor safety management.

When drivers consistently violate the hours-of-service regulations or do not keep log books, these too are symptoms of poor safety management. They need to be recognized and dealt with as such.

Much of the incentives for speeding and hours-of-service violations originates with the shippers. The Department of Transportation even acknowledged in its rulemaking on drug testing that shippers put pressure on drivers to meet the delivery schedules

that are impossible within the hours-of-service regulations. No matter what you do to the drivers, this problem is not going to be resolved until government influence is brought to bear on the shippers.

Mr. Chairman, it appears to us that the commercial driver's license program is moving ahead at a pace that we hope will provide adequate time for drivers in most states to get their new licenses by the April 1, 1992 deadline. The Office of Motor Carrier Standards deserves a lot of credit for meeting some fairly tight deadlines and issuing the regulations.

Now, the focus has shifted to the state legislatures and Teamster Locals and Joint Councils are actively involved in these legislative activities in many states. Our biggest concern is with the knowledge test required for these licenses. People who have proven over hundreds of thousands of miles on the road that they are good, safe drivers should not have their careers jeopardized by these tests. We have not seen any evidence that passing or failing these knowledge tests correlates with being a good, safe, or a bad driver.

Mr. Chairman, we generally support this Committee's effort to prod DOT on equipment safety, particularly antilock brakes. We would like to briefly tell you about some of the other equipment safety gains that the Teamsters have achieved through collectively bargaining that go way beyond what DOT requirements are.

To combat the driver fatigue problem, our National Freight Agreement requires air-conditioners and air ride seats, also requires front shock absorbers and that these be properly maintained. In sleeper cabs, our agreement requires wider sleeper berth dimensions than as do the Federal Highway Administration regulations, which might be of interest to you as it only requires a sleeper bunk to be 24 inches wide and our contract requires an additional 12 inches.

Our Freight Agreement specifies minimum clearances between fuel tanks on both the ground and the wheels. It also requires trailer height markings, a weight report—we have heard some discussion about the weight problems this morning—for the driver before beginning each trip.

Our Master Agreement in the freight, automobile transport, tank haul industries, all require only first-line tires on the steering axle of the trucks. Unfortunately, the Department of Transportation still permits recaps to be used on heavy trucks, but not on buses. Twin trailer trucks tend to be easier for the driver to control when the heavier of the two trailers is placed in front. We negotiated specific language on this into our National Master Freight Agreement in the absence of regulatory action by DOT.

Mr. Chairman, the transportation of hazardous materials poses special hazards for drivers and for other highway users and for the communities through which we pass. The shippers and the motor carriers who take on the responsibility should be held to especially high standards, the same as drivers.

We urge the adoption of a permit system for both shippers and transporters of hazardous materials. This was recommended to the Department of Transportation by the National Hazardous Materials Transportation Advisory Committee, of which I was a member, but DOT has taken no action on it.

Mr. Chairman, the Surface Transportation Assistance Act of 1982 struck what we thought at the time was going to be a durable compromise between truck size, weight uniformity and reasonable access. Now, that compromise is under attack from two different directions.

One is the end-run that some groups are trying to make around the clear wording of the act. Everyone involved in shaping the 1982 legislation knew what a truck terminal was, but now some people are trying to sell Federal Highway that terminal means just about anywhere that a carrier decides to load or unload their truck.

The other attack on the Surface Transportation Systems Act of 1982 comes from the pressure being applied to the states to accept larger and larger trucks. When the STAA was passed, the standard was supposed to be a 48-foot semi trailer, or 28-foot twins.

Now most states are permitting, I believe 35 at the present, 53-foot semi trailers and last year Tennessee bowed to industry pressure and went to the 53-foot limit. This year the pressure is on Georgia, Virginia, Maryland, North and South Carolina.

Now, some people are predicting that the truck of the future will be pulling 53-foot twins. We have to look at the access and the truck size together and from a safety viewpoint we cannot continue liberalizing access on local roads at the same time truck sizes are increasing. Something has to give.

Mr. Chairman, if you will permit me finally to just get into another subject that does not strictly involve safety, but is important to what is happening in this industry. Last month, Pilot Freight Carriers locked its gates, shut down its operation without notice; 2,000 Teamsters are out of work, 600 in my own home Local in North Carolina.

They did not go bankrupt. What happened—which was a well-kept secret until we sued them in Federal court—was that, when this company was sold last December to one of these new-breed corporate raiders, the new owner made a deal to sell all of the trucks on the very same day that he bought the company. He then proceeded secretly to sell off the equipment and terminals and in March, less than 3 months after he bought the company, he closed it down owing the employees several million dollars in wages and benefits.

Mr. Chairman, these vultures of American industry must not be permitted to continue to buy companies and just strip them of their assets to reap quick profits while they ruin the lives of hard-working men and women who have devoted their working lives to these companies.

Thank you, Mr. Chairman.

I would like, if you would permit me, just to make a couple of observations. I heard the earlier presentation. We certainly support any tightening up that we can do in this area of the containerized freight and one approach that I believe that has a lot of merit is, where there is a shipper's loading and count—where that shipper is doing the loading and the counting of the freight, whether it be across the ocean or across the country—then that shipper should be responsible for that load if it is overweight.

Now, if the carrier is doing the loading, then make it the carrier's responsibility. But so many of these loads today are being

loaded by the shippers on what we call a shipper's load and count and they get a break on their rates and I think that is the way to address that problem.

We also heard mentioned about the growing expansion of the 53 footers, which I have touched on in my comments.

But finally, on the question of driver shortage, there is a lot of discussion, a lot of talk about driver shortage. If you look at the carriers that are paying a decent rate they have no driver shortage.

The problem is with those carriers that are hiring drivers and paying 20 cents a mile and with 100,000 miles a year, that gives them about $20,000 a year that they have got to live on and eat off of up and down the road and be away from their family 6 and 7 days a week.

You cannot expect any company to be able to attract drivers under those conditions and when we hear the comment made that they have got to become more knowledgeable in computer use and almost become a highway engineer, we have to address the problem for what it is and I think the problem is with those companies that are refusing to pay a going, decent rate of pay and they are going to have driver shortages.

Thank you, Mr. Chairman.

[The statement follows:]

STATEMENT OF R. V. DURHAM, VICE PRESIDENT, DIRECTOR, SAFETY AND HEALTH DEPARTMENT, INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Mr. Chairman, my name is R. V. Durham. I am Vice President and the Director of Safety and Health of the International Brotherhood of Teamsters. The Teamsters Union represents hundreds of thousands of men and women in the motor carrier industry. The motor carrier safety laws you have passed in recent years, and any future the legislation, have a very real and significant impact on the economic well-being, job security, quality of life, health, and safety of these Teamster members and their families. It is with this background that I come before you today to discuss our view of where we are today, and where we would like Congress to help us go in the next few years, in terms of truck and bus regulation.

Mr. Chairman, if I might lay out an overall framework for my remarks here today, it is the proposition that Congress has done about as much as it can -- and in some cases more than we think it should -- in terms of regulating the driver's behavior. Drug testing, stringent new alcohol regulations,

new licensing requirements, and new disqualifications for serious traffic violations are just now beginning to take hold. It will be at least five or six years before we will have data that demonstrate what impact these requirements will have on motor carrier safety.

I urge you, Mr. Chairman, to wait a period of time to see what the real impact of these changes is before you mandate further requirements for drivers. Meanwhile, I suggest that you direct your attention toward the other parts of this very complex motor carrier safety puzzle: the equipment, the motor carrier management, and the shipper.

Mr. Chairman, when the Office of Technology Assessment reports to Congress that approximately 40% of all trucks have safety defects which would warrant placing them out of service, and when OTA estimates that three-quarters of brake problems could easily be found and fixed by normal maintenance, these are clear symptoms of poor safety

management. Likewise, when drivers consistently violate hours-of-service regulations, or do not keep log books, these are not just behavioral defects with the drivers: These, too, are symptoms of poor safety management. They need to be recognized and dealt with as such.

Much of the incentive for speeding and hours-of-service violations originates with shippers. DOT even acknowledged what is called "economic need" as a pressure on drivers to use stimulant drugs: " . . . . In some instances, shippers may put pressure on drivers to deliver goods by a specific time that drivers are unable to meet without violating, for example, the hours-of-service regulations. This pressure may cause drivers to seek to stay awake longer and lead to the use of stimulants like amphetamines to meet the time-table." My point here, and one that I think is sometimes missed by FHWA, is that this problem is not going to be resolved until government influence is brought to bear on

the shipper. Even if your drug testing initiative is 100% successful in deterring amphetamine use, those same drivers are still going to drive too far, too long, because the economic pressure from the shipper will not have changed.

With these thoughts in mind, I would like to discuss where I think we are, and where I see us going, with regard to several issues that affect motor carrier safety.

Commercial Driver's License

Mr. Chairman, it appears to us that the commercial driver's license program is moving ahead at a pace that we hope will provide adequate time for drivers in most states to get their new licenses by the April 1, 1992 deadline.

The Office of Motor Carrier Standards in the Federal Highway Administration deserves a lot of credit for meeting some fairly tight deadlines, and giving the states plenty of notice as to just what is expected of them.

The focus has now shifted to state legislative actions. OMCS continues to be very helpful to the various parties involved in those efforts in providing timely interpretations and information that enables the states to continue to move forward.

Teamster Local Unions and Joint Councils are very actively involved in these legislative activities in many states. The reports we have received back from our Locals have generally

indicated satisfaction that they have been able to make positive contributions to the effectiveness of these new licensing laws.

One area that concerns us is that some states do not seem to be leaving much more than a year to complete the licensing of their commercial drivers. We will continue to monitor this closely.

Our greatest concern is with the content of the knowledge tests for these licenses. Several months ago, we raised questions not only about the factual accuracy of some test questions, but also about the way other questions were framed which led a large percentage of drivers toward "wrong" answers. We have not received a satisfactory response from the developers of the tests. And we are not encouraged by reports from California, the first state to begin using this test, that approximately 35% are failing.

Mr. Chairman, while we certainly support the concept of the single, classified commercial driver's license, and

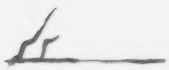
we see the necessity for testing the skills and knowledge of those who drive heavy trucks, buses and hazardous materials, we are very worried that thousands of good, solid, safe, experienced truck drivers will have a great deal of difficulty with these written tests. We are particularly concerned for those whose reading skills are not the highest.

People who have proven, over hundreds of thousands of miles on the road, that they are good, safe drivers should not have their careers jeopardized by these tests. Our concern is heightened by the fact that we have not yet seen adequate evidence that individuals' performance on these knowledge tests correlates with their actual safety performance as a commercial driver.

The other side of this testing, of course, is what training will be available to help drivers prepare for the tests. We have heard about a variety of materials that will be developed for this purpose -- though we do

not yet know anything about price. We have heard from some of our California Local Unions that they are running review classes for their members.

We believe strongly that training will play an important part in helping established commercial drivers to successfully negotiate these new driver's license tests between now and 1992. We urge the Congress to establish a grants program to promote such refresher training for experienced drivers.



Equipment Safety

Mr. Chairman, equipment design and maintenantenance directly affect our members' safety. A well-designed vehicle that is properly maintained is an essential ingredient in highway safety. Obviously, two major areas of concern to our members are tires and brakes.

Last summer, we petitioned the Federal Highway Administration to upgrade their regulation on tires, focusing primarily on tread depth. We have not yet seen any response from FHWA, but we are hopeful that there will eventually be some movement in the direction we have suggested.

The Congress acknowledged the importance of brake systems in the Truck and Bus Safety and Regulatory Reform Act of 1988. You called for a report on improved brake systems, including antilock. And you called for rulemaking aimed at better maintenance, repair and inspection of brakes.

As you know, Mr. Chairman, the National Highway Traffic

Safety Administration has a major study under way of antilock brakes. While their study is far from complete, we are ready now to predict the outcome: If NHTSA proposes a new standard to require any antilock brake system at all, it will only be the cheapest one available.

The Federal Highway Administration has begun moving toward fulfilling the mandate you gave them in the 1988 Act regarding brake maintenance. But in so doing they are narrowly interpreting the Act as addressing only brake work done by employees of motor carriers and not brake work performed by other truck maintenance or repair groups. I suggest that this Committee consider clarifying this point.

We have suggested to FHWA that they consider mandating automatic slack adjusters as one means of improving the state of brake adjustment on trucks. We also urged FHWA to look at adjustment indicators, as another equipment change that could pay significant dividends in improved brake adjustment.

There are many other equipment-related issues which are ripe for rulemaking by FHWA and/or NHTSA. In fact, the Teamsters Union has taken up several of these at the bargaining table, and obtained safety improvements that go well beyond what FHWA and NHTSA require.

For example, to combat driver fatigue, our National Master Freight Agreement requires heaters, air conditioners and air ride seats in over-the-road tractors. We also require front shock absorbers, and that they be properly maintained. In sleeper cabs, our agreement requires larger sleeper berth dimensions than do Federal Highway Administration regulations.

Our freight agreement specifies minimum clearances between fuel tanks and both the ground and wheels -- an area that FHWA regulations do not address. It also requires trailer height markings, and a truck weight report for the driver before beginning each trip. Our master agreements in the freight, automobile transport and tank truck industries all require only first-line tires on the steering axle.

Twin trailer trucks are prone to certain handling problems. These tend to be easier to control when the heavier of the two trailers is placed in front. This is a serious safety concern that becomes more and more important as twin trailer combinations continue to grow in numbers on our highways. And this is yet another safety matter on which we negotiated specific language into our National Master Freight Agreement in the absence of regulatory action by DOT.

Attached to my statement is a copy of all of the truck safety language that was agreed upon as part of our 1988 National Master Freight Agreement.

Section 405

Mr. Chairman, Section 405 of the Surface Transportation Assistance Act of 1982 is the best safety whistleblower protection law ever passed by Congress.

In a report issued last year on OSHA's stewardship of Section 405, the General Accounting Office criticized OSHA for slowness in investigating Section 405 complaints, and for failure to make the availability of Section 405's protection known to affected workers. Both criticisms are important. We know OSHA is moving to respond in terms of informing workers about Section 405. And we hope the Committee will continue to monitor OSHA's administration of Section 405 to see that complaints are investigated promptly.

Establishing Accountability Between HazMat Shippers and Carriers

Mr. Chairman, the transportation of hazardous materials poses special hazards to drivers, for other highway users, and for communities through which these materials pass. Shippers and motor carriers who take on this responsibility should be held to especially high standards. It is time for the Federal Government to go further than merely saying that motor carriers with poor safety ratings should not be entrusted with hazardous materials. We urge the adoption of a permit system, for both shippers and transporters of hazardous materials, whereby permitted shippers would be required to contract only with permitted motor carriers -- and vice versa. Obviously, one criterion for obtaining a hazardous materials transportation permit should be at least a satisfactory safety rating. This permit system approach was recommended to DOT in 1986 by the National Hazardous Materials Transportation Advisory Committee, of which I am a member. But DOT has taken no action to implement it.

Access and Uniformity

Mr. Chairman, as I am sure you recall, the Surface Transportation Assistance Act of 1982 struck what we thought at the time would be a durable compromise between truck size, uniformity and reasonable access for motor carriers from our nation's highways to terminals, repair facilities, and food and lodging facilities. Now, nearly seven years later, that compromise is under attack from two different directions.

One of these attacks is a kind of offshoot of what we generally see as motor carriers' legitimate efforts to see that the off-highway access to these facilities that is accorded them by state and local jurisdictions is really "reasonable." The current focus for these efforts is rulemaking by the Federal Highway Administration. We will make our views known to FHWA shortly on a number of issues raised in that rulemaking. But one that I think is worth mentioning to this Committee is the end-run that some interests are

trying to make around the clear wording of the Act concerning the definition of a terminal. Now, I believe that every member of this Committee at the time, and everyone involved in shaping that legislation, knew what a truck terminal was. Now a certain segment of the industry has gone to FHWA with the argument that "terminal" means not only a truck terminal, but also just about anywhere else that a carrier decides to load or unload their truck. Such torture of plain English undermines the purpose of the Act. And it may very well work against the efforts of the industry to reach agreement with state and local jurisdictions as to what sort of access is "reasonable."

The other attack on the STAA, Mr. Chairman, comes from the pressure being applied to the states to accept larger and larger trucks on their highways. Mr. Chairman, when the STAA was passed, the standard around which we thought we were agreeing was a 48-foot semi-trailer, or a doubles

unit with two 28-foot trailers. Now we are faced with a situation where most states are permitting at least 53-foot semi-trailers. Last year, Tennessee bowed to industry pressure and went to a 53-foot limit. This year, the pressure is on Georgia, Virginia, Maryland, North Carolina, and South Carolina. Some people are predicting that the truck of the future will consist of a tractor pulling 53-foot twins.

If we are going to look to the future, we have to look at access and truck size together. Purely from a safety viewpoint, we cannot continue liberalizing access on local roads at the same time truck sizes are increasing. Something has to "give" here.

Worker Safety and Health

In the Motor Carrier Safety Act of 1984, Congress required DOT, in consultation with the Department of Labor and the National Institute for Occupational Safety and Health, to undertake a study of the health and safety hazards to which commercial motor vehicle operators are exposed. In its report to Congress last year, DOT pointed out that traffic accidents are the leading cause of death for drivers; and that truck drivers have a higher fatality rate than every other major industry except mining and quarrying.

This is the primary reason we are here today: Because the legislation that comes out of this Committee and the rulemaking of FHWA and NHTSA have a very real impact on the safety of our members who are truck and bus drivers.

There is another side to this safety question, however: As DOT acknowledged in its report to Congress, 6 out of 7 workers compensation injuries to truck drivers, and 92%

of all workers' compensation injuries in the trucking industry which are recorded in the Bureau of Labor Statistics' Supplementary Data System, are not related to traffic accidents. Many of these are back injuries and other injuries that occur in loading and unloading. An injury area that is of particular concern to our members in the freight industry is the ongoing injury epidemic among drivers and others who have to handle converter dollies in hooking and unhooking double and triple trailer combinations.

We are also seeing increased concern among truck drivers about occupational health issues. One area of concern is diesel exhaust, where we are getting more complaints from drivers of certain types of equipment at the same time that the National Institute for Occupational Safety and Health has recommended that diesel exhaust should be regarded as a potential occupational carcinogen.

There is also a growing realization that DOT's hazardous materials regulations are not designed to protect the health

of drivers and dock workers. In two of the most dramatic cases recently, we received calls from Local Unions wanting to know why chemicals to which drivers were exposed were not placarded. In both cases, containers were broken in the trucks. When they arrived at the delivery sites, those companies sent emergency response teams in with special suits and respirators to clean up the spills. In one case, our driver was taken to a medical facility for an examination. In both instances, the chemicals involved were very toxic. Both are known or suspected carcinogens, and one has been linked to birth defects. But in neither case did DOT require any placarding, labeling, or identification as a hazardous material on the shipping paper.

In the Motor Carrier Safety Act of 1984, Congress also directed DOT to take a fresh look at all of the Federal Motor Carrier Safety Regulations, and to reissue them with amendments as needed. In its final word in response to this mandate, the Federal Highway Administration announced

in February that there is no need for it to promulgate new employee safety and health standards. In their view, "Most of the safety problems encountered in the motor carrier industry are either already regulated by the Federal Highway Administration's Office of Motor Carriers or the National Highway Traffic Safety Administration (NHTSA), or they are not amenable to regulatory solutions within the authority of the DOT."

Mr. Chairman, we basically agree with DOT's assessment of the situation. We believe, as DOT apparently does, that worker safety issues that involve activities other than the driving of the trucks on the highways are more appropriately dealt with by OSHA, and that hazards to these workers' health are also more appropriately OSHA's concern than DOT's. But I do think that it is important for this Committee to understand and appreciate the full range of risks that our members face in the trucking industry.

Drug Testing

Mr. Chairman, as you know, we have not seen eye-to-eye with this Committee as to the best approach to preventing substance abuse in the trucking industry. The Federal Highway Administration issued its drug testing rules on November 21, and we are in Federal court now with our challenge to the random and post-accident testing aspects of that rule.

I think the random testing question is headed for the Suprere Court -- if not in our case, probably in one of the other challenges raised by other unions to other DOT drug testing rules. So I won't take up any of the Committee's time today going back over that ground. But I think that it is worthwhile to spend a little time just talking about the practicality of post-accident testing. As we have said repeatedly up here in the past, we have absolutely no problem with drug testing drivers after an accident where the police officer suspects drug involvement. In fact, we have told

this Committee, and we have told the Federal Highway Administration, that we think that any driver -- truck or car -- involved in an accident should be subject to drug testing if the officer suspects drug involvement. The Federal Highway Administration's answer has been that they don't have authority to require testing of anyone but the truck driver. I submit, Mr. Chairman, that this Committee should think about ways to give FHWA that authority.

What really troubles us about post-accident testing, as it is conceived in the FHWA rule and in S. 561, is that it requires the truck driver to be tested even in situations where he or she is clearly not at fault, and the police officer has absolutely no suspicion of drug involvement. To put this in proper context, it is important to remember that, according to published studies, the car driver in a car-heavy truck accident is at fault most of the time. In fact, according to a University of Michigan study, a

substantial portion of car-truck accidents involve drunk car drivers running into trucks -- especially at night. In those situations, it is unfair, unreasonable, and unproductive to require a drug or alcohol test of the truck driver.

The other aspect of the FHWA rule on post-accident testing that we think is impractical and unreasonable is that it puts the responsibility on the driver to get himself tested. A truck driver who is involved in a reportable accident has to go out and find a urine collection site that meets DOT specs, and make sure they send off the urine specimen, under chain of custody procedures, to a NIDA-certified laboratory. On top of everything else, that driver is probably also going to end up paying the collection site and the laboratory -- unless he or she belongs to a union that can negotiate for the employer to pay. And keep in mind that most of the time, the accident wasn't even this driver's fault to begin with.

Still on the subject of drug and alcohol testing, we have some questions about S. 561: 1. What does it mean to use alcohol "without lawful authorization"? 2. What kind of pre-employment and periodic testing would you do for alcohol, and what is the point? 3. Why are truck drivers less deserving of a chance to go through rehabilitation than airline pilots? S. 561 mandates an opportunity for substance abuse treatment for pilots. But for truck drivers, "the Secretary shall determine the circumstances under which such operators shall be required to participate in such program." We have already been through this with the previous Secretary of Transportation. He did not find any circumstances where he was willing to require employers to provide a treatment opportunity instead of just firing the worker. So if the Congress fails to mandate an opportunity for rehabilitation, we certainly do not expect it from the Administration.

Judicial Review

Mr. Chairman, there is one area of law that has not been addressed by Congress since the responsibility for motor carrier safety was shifted from the I.C.C. to the Department of Transportation. That is: Where should we go to seek judicial review of changes in regulations? And how long do we have to petition for such review? The statutes are very confusing on this question, and it was recently a point of disagreement in the context of our challenge to the Federal Highway Administration's drug testing rules. A few words from Congress in the next truck safety legislation could prevent future litigation on this issue.

Plant Closing Law

Mr. Chairman, last month Pilot Freight shut down without notice, putting 2,000 Teamsters out of work -- 600 of them in my own Local Union in North Carolina.

This company did not go bankrupt. After we sued them, we discovered that on the very day the company was purchased as an operating trucking concern, the new owner made a secret deal to sell all of the company's trucks. He then proceeded to secretly sell off the terminals. It is now obvious to us that he never had any intention of operating Pilot as a trucking company.

As I said, we have brought a lawsuit, on behalf of our displaced members, under the Worker Adjustment and Retraining Act of 1988. We hope to protect their pensions, and to secure for them the pay and other benefits called for by the plant closing law.

I would like to thank the majority of members of this Committee who supported the plant closing law in the last Congress. I just wish that the nearly one hundred thousand Teamsters who lost their jobs due to deregulation had had the benefit of this form of Congressional protection.

Mr. Chairman, the Teamsters Union is ready and willing to work alongside those in the motor carrier industry who treat their employees fairly and try to compete honestly in the mess that the motor carrier industry has become since deregulation. But we will do whatever we can, and we ask you in Congress to join us, to stop those who are looking only for a quick profit, with no regard for the people who work for them.

I have to say, Mr. Chairman, that we believe that what happened to Pilot Freight would not have been possible without deregulation of the trucking industry. We are determined to oppose any attempt to further deregulate our nation's transportation industries at either the federal or state level.

Senator BRYAN [presiding]. Mr. Durham, we thank you very much for your testimony. Senator Exon had to excuse himself. He was called away to testify at another hearing. But we have been joined by the ranking subcommittee member, Senator Kasten.

Senator KASTEN. Mr. Chairman, thank you. I, too, have a number of different responsibilities this morning. We just got finished with hearing the Secretary of Commerce. Actually, he is testifying right now and I am going to try to get back to State, Justice and Commerce and the Appropriations Committee.

I just have one question that I would like to ask of this panel. Yesterday we heard testimony which suggested that Congress should consider establishing Federal standards for the training of commercial drivers. I just wanted to ask a question to Mr. O'Connell and Mr. Durham and—Mr. Turner, if you would like to make a comment with regard to buses, that is fine. But why do we not start with Mr. Durham. Do you feel that such a requirement would be necessary and do you feel that such a requirement would lower the number of truck accidents attributed to driver error?

Mr. DURHAM. I do not personally believe that Federal standards are needed. What you find, senator, is the unionized carriers, they draw their drivers from the other companies that are paying the low rates so they are not too concerned. I guess with the exception of UPS they do their own training and do a good job.

What you have out there, of course, is the truck-load carriers that are looking to the truck driving schools to furnish drivers and there are some bad actors out there, taking advantage of not only drivers—promising them jobs when jobs are not there and so forth—but I believe that Federal attention is needed a lot more in other areas and to try to get involved in setting up what the curriculum should be for truck driving school.

Senator KASTEN. Mr. O'Connell.

Mr. O'CONNELL. Thank you, senator. Our association has been very supportive of and involved in the Professional Truck Driver Institute of America, PTDIA, as an industry-sponsored initiative. Mr. Donohue from the American Trucking Association spoke of it earlier. The trucking industry has poured more than a million dollars in to PTDIA to standardize the curriculum of driver training schools and to certify those schools.

To date the institute has certified a number of driver training courses. OOIDA believes, that the market-driven incentive of safer drivers is bringing the drivers in to formal training programs. In addition, the trucking companies are demanding a safer driver from the schools and insurance interests are demanding that the entry-level drivers be trained in certified schools. This private sector initiative is probably the fastest way to accomplish what the Committee might seek with legislation. Legislation at this time we think would slow down the PTDIA effort, as Mr. Donohue stated earlier. A number of schools that are currently trying to apply to PTDIA would be placed in limbo.

We have a witness from the Professional Truck Driver Institute that is on a later panel to address that issue.

Senator KASTEN. Mr. Turner, do you have any comments on this issue?

Mr. TURNER. Senator, I think at this point, now that the CDL has been put into place, which has been a long process in itself, which sets standards and guidelines for these operators to obtain the license in the first place, I think probably the thing to do is to wait and see how this goes on line, if it does in fact take care of the problem. Setting standards, or telling schools what their curriculum should be and how they should follow it I think would be a little bit of a premature judgment at this point. I think we should give the CDL a chance to prove that it might nip the problem right in the bud.

Senator KASTEN. This suggestion was made by the Office of Technology Assessment as a result of a couple of the different studies they made. I frankly am pleased with the responses from the three of you, because I think that there is a need for Federal involvement, Congressional involvement in all of these different areas and that is why we are having this hearing today.

But at the same time I think a lot of us can argue that we are starting to get wrapped up in excessive paperwork, rules, requirements and whatever and particularly if we can do it without government involvement and reach the goals, I think that is preferable.

Mr. Chairman, thank you. I have a couple of other questions but I would like to submit them for the record and thank you all.

Senator BRYAN. Thank you very much, Senator Kasten. We will leave the record open for additional questions that you may have, as well as other members of the Subcommittee and we would like to thank the members of this panel for their participation this morning. Thank you very much, gentlemen.

The next panel will consist of Mr. John Cook, Senior Vice President for Communications and Information, Insurance Institute for Highway Safety, Mr. David F. Snyder, counsel for the American Insurance Association, Mr. George Viverette, Director of Highway Transportation, Government Affairs Department, American Automobile Association, Mr. Ed Jack Compton, Jr., representing the Texas Truck Safety Alliance, Manager of Health and Safety for Houston Lighting & Power Co., and Mr. Rainey Turpin, Director of Safety Transportation Division, AIG Insurance Co.

Gentlemen, good morning and welcome to the subcommittee. We will begin with you, Mr. Cook.

STATEMENT OF JOHN COOK, EXECUTIVE VICE PRESIDENT, INSURANCE INSTITUTE FOR HIGHWAY SAFETY

Mr. COOK. Thank you, Mr. Chairman, and in the interest of time I would appreciate the inclusion of my statement in the record.

Senator BRYAN. It will be included in the record.

Mr. COOK. My name is John Cook and I am Executive Vice President of the Insurance Institute for Highway Safety.

We appreciate the Committee's invitation to present testimony this morning and we commend the work of this Committee which has provided leadership for the Congress and the Nation, really, since the 1984 acts, through the 1986 and 1988 legislation and with the present 1989 Motor Carrier Act.

I know I do not have to tell anyone on this Committee about the problems that those of us who live and work around the Washington area have with the Capitol Beltway and the congestion that can be caused by what appear to be routine incidents involving big trucks. Incidents that close our beltway and create quite a problem for all of us that live in the area.

I would like to use a little of my time this morning, Mr. Chairman, to tell you about a study that we began about nine months ago. It was at a time, you may recall, that the beltway was in full flower. We had had such repeated incidents of truck crashes causing closings of the beltway in both directions on successive days,

that we began to think that those of us who live around this area were cursed in a way for living in the Metropolitan Washington Area.

Senator BRYAN. Mr. Cook, there are some people that believe that. I want to make a disclaimer, myself, but I know where of you speak.

Mr. COOK. Well, we decided to take a look around the country to see if we had a local curse, or if indeed other cities suffered from the same maladies. We instructed our newspaper clipping service to begin looking only at truck crashes that made the front pages of newspapers.

We knew that from those instructions we would only be looking at serious crashes and we were prepared to see that there were some delays in other cities, but we were quite unprepared for the extent to which the problem that we have in the Washington area is shared from around the country.

During August of last year, a 1-month period of time, the front pages of the Nation's major daily newspapers reported 125 local truck crashes that appeared on the front page, involving 232 vehicles. There were 61 immediate fatalities and 150 injuries. Traffic delays were extensive.

In some of the more complex collisions, delays of 8 or 9 hours were reported. Fire equipment was often involved and cleanups were made more difficult not only because of the cranes required to move overturned trailers, but there was spilled cargo, fires, and hazardous materials to be cleaned up.

What we discovered in this 1-month period of time is that we have a national problem. We do not have a series of local problems. In every major metropolitan area we have a problem with truck crashes, not only in terms of public safety, but in economic terms as well.

Big truck crashes can and often do tie up traffic for hours, causing mayhem, especially in rush-hour. Big trucks reportedly cost Los Angeles alone more than $100 million annually in the form of crashes, spills, delays and cleanup and L.A. is not alone. Big truck crashes are a major contributor to traffic congestion across this country.

This Committee, beginning in 1984 and in 1986 and 1988 and 1989, has provided leadership for the country and the Congress, but I think no one would disagree that we still have a big problem.

The Committee has charted a course, laid out a road map for a long-term program of improvements, but where is the engine? Where is the leadership in the agencies that are in existance to provide the needed action to enable us to make progress?

Not all progress needs to be long term. Some solutions are known and could be quickly implemented and could begin to show immediate results. A couple of examples: Federal regulations require that interstate truck drivers operate not more than 10 hours following 8 hours off duty, nor more than 60 hours in any 7 consecutive days. To reduce fatigue-related crashes, truckers are required to maintain written logs of their driving hours, but log-book violations are common because Federal regulation limiting hours behind the wheel lacks teeth.

In the 1988 law last year this Congress instructed the Department to begin rulemaking on improved compliance with Federal hours-of-service regulations and to include in this rule-making consideration of on-board monitoring devices. Well, the Department of Transportation has hired a contractor to do a preliminary analysis before embarking on the study that you asked them to do, even though last year's legislation requires a final report in 2 years.

In the meantime the Department must begin rulemaking on improving compliance with the hours-of-service rules and include in this rulemaking consideration of on-board monitoring devices. There are no more excuses for failing to start such rulemaking, nor is there any good excuse for failing to complete it within a reasonable time. The U.S. Department of Transportation must get moving to require, not just allow, motor carriers to use automatic on-board recorders.

Central to the hours-of-service issue is truckers' drug use. Our study recently—which we have submitted for the record in previous hearings—showed one out of three tractor trailer drivers use substances with the potential for abuse and that among the most commonly used drugs are stimulants.

There is a reason for this. The reason so many truckers use stimulants is to be able to put more hours on the road, to cover more distance at whatever cost. If the driving hours were curtailed and enforced, there would be less reason to turn to stimulants in order to extend working hours. Addressing the one problem would have a big effect on the other.

I see that my time is growing short, but we think also antilock brakes, which keep the wheels from locking up during braking, which will be required as of October 1991 on large vehicles in Europe's Common Market countries, are not present in any trucks to speak of in this country and should be. We are now seeing many cars equipped with antilock brakes, even some motor cycles, but for commercial vehicles we are way behind what our counterparts in Europe and in Australia are doing: requiring antilock brakes on big trucks.

The Motor Carrier Act of 1989, S. 819, sets a more definite timetable for rulemaking to act rather than merely study antilocks, but it must homehow be made clear they are a proven technology. They prevent jack-knives, and it is time for a great deal more from the Transportation Department than just studying them. It is time we had them on all big trucks in the United States.

I see my time is complete. I would be happy to take some questions, but I would just close by saying there is no silver bullet to this problem. We have to have a balanced approach. I think that the Committee's work in 1984, 1986, 1988, and 1989 does provide that balanced approach and we are happy to work with this Committee and its staff to try to make progress in this much-needed area.

Thank you.

[The statement and questions and answers follow:]

STATEMENT OF JOHN R. COOK, INSURANCE INSTITUTE FOR HIGHWAY SAFETY

Mr. Chairman and members of the subcommittee, my name is John Cook and I'm executive vice president of the Insurance Institute for Highway Safety. We appreciate this committee's invitation to present testimony this morning on the country's progress on motor carrier safety issues. The Insurance Institute for Highway Safety is a nonprofit research and communications organization that identifies and develops ways to reduce motor vehicle crashes and their losses. We are supported by the nation's property and casualty insurers.

The Institute commends the leadership and vision this committee has consistently demonstrated to address serious problems involving motor carrier safety. The Motor Carrier Safety Act of 1984 began to focus the attention not only of Congress but also of the nation as a whole on the growing problem of deaths and injuries from truck crashes. The Commercial Motor Vehicle Safety Act of 1986 recognized the importance of a single national driver's license for commercial vehicle operators and provided for strict and severe penalties for truck drivers who violate safety laws. The Truck and Bus Safety and Regulatory Reform Act of 1988 pushed the Department of Transportation ahead on solutions to hours-in-service and truck brake performance problems. And the new proposals contained in this year's Motor Carrier Safety Act recognize that a balanced approach to truck safety problems is more effective than a single remedy, no matter how much a single solution may seem to promise.

As the chairman may recall, in late 1985 we at the Institute produced a report on big trucks and highway safety that defined and quantified many of the problems associated with operating tractor-trailers on the nation's highways. In the months following publication of our report, we watched as the nation's news organizations reported local and national stories about the severity of the problem and focussed on many of the solutions this committee has worked to get written into law. Stories moved from the front pages and evening news programs into the editorial pages and broadcast commentaries -- and every comment expressed the pressing need to do something about the scandal of truck-related highway deaths and injuries.

Still, we're facing serious problems sharing the road with big trucks in 1989. Those of us who live and work in the capital area are acutely aware of this, as are people who live in many other major urban areas with the same problems. In fact, closing part of the beltway because of a truck crash has become almost routine. So has traffic disruption and delay. We tend to think of these delays as a local curse, the price we pay for living and working in metropolitan Washington. But this is not a problem unique to the capital area, the beltway, or even the

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congested eastern seaboard. It's truly a national problem. When you travel to your own states or any of us travels around the country, it's hard to pick up a newspaper that doesn't mention a truck crash. Last summer when we asked our news clipping service to send us reports on truck crashes, we limited this exercise to front-page stories during a one-month period. We were trying to gauge the disruption and congestion caused by tractor-trailer crashes, and we only wanted to study the most serious crashes. We didn't want to include the routine events that merit only a sentence or two under "Metro Area Roundup."

We were prepared to count a number of crashes during this one-month period, and we knew all of them would be serious crashes. But we weren't really prepared for the results we got. During August of last year, the nation's major daily newspapers reported 125 local truck crashes involving 232 vehicles. There were 61 immediate fatalities and 150 injuries. Traffic delays were extensive. In some of the more complex collisions, delays of eight and nine hours were reported. Fire equipment was often involved. And cleanups, seldom simple because of the huge cranes needed to right and haul away the disabled trailers, were made more difficult when the crashed trucks spilled cargoes, caught on fire, or when hazardous materials were involved. Of the 162 big trucks involved in these 125 crashes, 17 reportedly were hauling hazardous materials

Editorial opinion countrywide about truck safety still ranges from concern to outrage. And public reaction continues to be something I call the "rear-view mirror syndrome" -- that is, passenger car drivers fearing the sight of big truck grills in their rear-view mirrors. To them it signals imminent danger and, unfortunately, they may be right. Nationwide, more than 4,000 people die in tractor-trailer crashes every year. Big trucks are involved in only about 3 percent of all police-reported crashes, but they account for 9 percent of all fatal crashes.

Most big truck crashes involve passenger cars and, when these crashes happen, it's almost always the people in the cars who suffer most. Car occupants are 47 times more likely than truck occupants to be killed in fatal truck-car crashes.

We're talking about an economic issue as well as a safety issue. Big rig crashes can -- and often do -- tie up traffic for hours, causing mayhem especially at rush hour. Big trucks reportedly cost Los Angeles alone more than $100 million annually in the form of crashes, spills, delays, and cleanup -- and Los Angeles isn't the only city bearing these kinds of huge costs. From Atlanta to Seattle, transportation officials agree that truck crashes are a major

contributor to traffic congestion.

Such problems are daunting in their magnitude, but there are measures that can be taken to reduce truck crashes and the deaths, injuries, property damage, and other losses they cause. The measures I'm referring to are well known to this committee and to Congress. Many of them are included in a recent report on motor carrier safety from the Congressional Office of Technology Assessment. And, in some cases, they are measures that Congress has already instructed the U.S. Department of Transportation to investigate and act on.

On-Board Recorders

Federal regulations require that interstate truck drivers operate not more than 10 hours following 8 hours off duty nor more than 60 hours in any 7 consecutive days. To reduce fatigue-related crashes, drivers are required to maintain written logs of their driving hours. But logbook violations are common because the federal regulation limiting hours behind the wheel lacks teeth. If trucks were equipped with devices that automatically record hours in service, plus other data like speed, it would be easier to enforce driving time restrictions and speed limits. The Institute has more than once asked the Department of Transportation to require automatic on-board recorders. And Congress late last year instructed the Department to begin rulemaking on improved compliance with federal hours-in-service regulations and to include in this rulemaking consideration of on-board recorders.

The U.S. Department of Transportation has hired a contractor to do a preliminary analysis before embarking on its two-year study of driver fatigue, even though last year's legislation requires a final report in two years. In the meantime, the Department must begin rulemaking on improving compliance with hours-in-service rules and include consideration of on-board monitoring devices. There are no more excuses for failing to start such rulemaking. Nor is there any good excuse for failing to complete it within a reasonable time. On-board recorders have been used by hazardous materials carriers in this country for more than 20 years. And there's a bonus -- these devices often pay for themselves in a year or less because of improved fuel economy alone. The U.S. Department of Transportation must get moving to require, not just allow, motor carriers to use automatic on-board recorders.

Drug Use by Truck Drivers

Central to this hours-in-service issue is truckers' drug use. Our research indicates that about

one out of three tractor-trailer drivers uses substances with the potential for abuse and that among the most commonly used drugs are stimulants. The reason so many truckers use stimulants is to be able to put in more hours on the road, to cover more distance at whatever cost. If driving hours were curtailed, there would be less reason to turn to stimulants in order to extend working hours. Addressing one problem would go a long way toward helping the other.

Antilock Brakes

Improved truck equipment, as well as better compliance with hours-in-service regulations, would improve truck safety, too. Antilock brakes, which keep wheels from locking up during braking, will be required as of October 1991 on large vehicles in Europe's common market countries. Buses and tractors will have to have antilocks on all wheels. Trailers must have them on at least two wheels on opposite sides. Antilock provisions are also included for single-unit trucks and their trailers. In the United States, more and more new passenger cars are being equipped with antilocks. Some motorcycles even have them. But virtually no trucks in the United States have antilocks, nor are there plans yet to require them, despite a widely publicized truck crash problem nationwide.

Congress took a first step toward antilock requirements last year by requiring the Department of Transportation to report to Congress on whether improved brakes, including antilocks, should be mandated for commercial vehicles. As a result, the Department announced a two-year study of antilock brakes on 200 tractors, the last of which are scheduled to be delivered next month. Six months after that, researchers will begin putting antilocks on trailers. So Department officials estimate it will be late fall before the study is fully underway. On a two-year timetable, then, it will be May 1991 before the antilock fleet experience is gathered. I expect the report won't be issued for some time after that -- even though legislation requires a report from the Department of Transportation on improved brakes no later than January 30, 1991. In addition, the Motor Carrier Safety Act of 1989 calls for rulemaking in 1991 to improve truck braking performance. This, too, is important, and it sets a definite timetable for rulemaking, although waiting nearly two years to initiate such rulemaking seems too long. Antilocks are a proven technology. They prevent truck jackknifing. It's time for a great deal more than studying them. It's time we had them on all big trucks in the United States.

Insurance Institute for Highway Safety
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Conclusion

There's no silver bullet to solve the truck crash problem. We've got to have a balanced approach to problems involving the drivers, the trucks themselves, and the highways. And, because we simply don't have the resources to redesign our highways so they're safe for longer and longer truck rigs, we've got to restrict the access of double and triple trailer rigs on roads where they clearly cannot be operated safely. These are the kinds of common sense programs that will curb the truck crash problem.

Again, we commend this committee's diligence on the matter of truck safety. It's a problem that won't just go away. Rather, it will take aggressive public and private sector solutions to make progress. We at the Institute stand ready to supply data or to support in other ways such programs that hold promise for reducing losses. We would also like to answer any questions that members of the committee may have.

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June 16, 1989

The Honorable Ernest F. Hollings
Chairman of the Committee on Commerce,
Science, and Transportation
The United States Senate
125 Russell Senate Office Building
Washington, DC 20510

Dear Senator Hollings:

Thank you for giving us the opportunity to answer the follow-up questions from Senator Kasten that resulted from the Commerce Committee's hearing on motor carrier safety on April 19, 1989.

Senator Kasten's first question inquires if the information that the Department of Transportation makes public on motor carriers who receive an unsatisfactory safety rating would be useful to the public? It is difficult for our organization to determine whether or not the public would take cognizance of motor carrier operators that have either a good or a poor safety rating. This information might prove useful, however, both to law enforcement agencies and commercial insurance organizations who could conceivably conduct programs to encourage exemplary safety ratings and discourage unsatisfactory ratings.

Senator Kasten's second question is beyond the ability of our organization to answer. The Insurance Institute for Highway Safety is not engaged in the business of insurance and we are unable to comment on the effect of an unsatisfactory safety rating on assigned risk pools.

Again, we very much appreciate the opportunity to have participated in your hearing as well as to provide these comments for the record. If we can be of further assistance, please do not hesitate to let me know.

Cordially,

John R. Cook
Executive Vice President

Senator BRYAN. Thank you very much, Mr. Cook. We appreciate your testimony and comments. Mr. Snyder, we will hear from you next.

STATEMENT OF DAVID F. SNYDER, COUNSEL, AMERICAN INSURANCE ASSOCIATION; ACCOMPANIED BY PAT BARKDOLL, USF&G INSURANCE CO.

Mr. SNYDER. Thank you Mr. Chairman and Members of the Subcommittee, staff, ladies and gentlemen.

The Congress should indeed be proud of its leadership role in aggressively pursuing improved truck and bus safety throughout the 1980s. Chairman Exon, Senator Danforth, Chairman Hollings, and Senator Adams have all played pivotal roles in this crucial effort.

We note and applaud a related development: the full Committee's reporting of the NHTSA reauthorization bill yesterday under the leadership of Subcommittee Chairman Bryan. We also applaud the constructive statements and actions of America's trucking industry in the area of highway safety.

Yet, preventable truck accidents continue to happen with unnerving frequency. The annual toll continues to be about 5,500 lives, 170,000 injuries and billions of dollars lost in direct and indirect costs. Just yesterday a tragic multifatality truck accident occurred outside of our neighboring city of Baltimore.

Insurance losses and related expenses for commercial auto coverage have increased 35 percent since 1985, led by a 49-percent increase in liability losses and related expenses. Last year, three of America's 10 largest jury verdicts, including the biggest, resulted from truck crashes. Here, I refer to the March 1989 issue of the American Bar Association Journal.

For this reason, the American Insurance Association and its 204 member insurers, which write about 30 percent of the commercial auto coverage in this country, are honored to have the opportunity to testify here today. My name is Dave Snyder and with me is Pat Barkdoll with the USF&G Insurance Co.

We, the American Insurance Association and its member insurers, support each and every provision of S. 819.

Consumers and insurers have the same fundamental interest in loss prevention, both humanitarian and economic. Accordingly, a major, new, broad-based consumer insurer action program has been initiated to prevent and reduce losses.

This is contained in the Consumer Health and Safety Agenda. The Agenda contains critical recommendations on truck safety, including requiring antilock brakes, state enactment of legislation to implement the commercial driver's license program, prohibiting radar detectors in commercial motor vehicles, improving safety regulation and higher driver standards. We support action on each and every one of these consumer priorities.

Brakes, especially, cause up to one third of truck accidents and are the leading mechanical cause of out-of-service orders and probably accidents. Antilock brakes are the answer. They virtually eliminate jack-knives and have been proven on the roads of, and will be mandated in, much of the rest of the industrialized West.

All new trucks in this country should be equipped with antilock brakes, starting in the early 1990s.

Because speed is the greatest truck driver behavior problem, we urge the Congress to consider outlawing radar detectors in commercial vehicles. Enactment by every State of the model law, on which we worked with the AAMVA and the trucking industry, is fundamental to improving driver performance through the single driver's license, testing and disqualification for serious offenses that are provided in the Commercial Motor Vehicle Safety Act of 1986.

Improved enforcement should result from the proposed legislation on public disclosure, improved rating systems and reinspection of proven violators. It seems to us that additional regulatory attention on proven unsafe operators should produce a big return in accident prevention for every regulatory dollar that is spent.

Finally, we are aware that there may be some problems in certain jurisdictions in meeting the current mandatory financial responsibility requirements. We suggest that if this is a problem recognized by Congress, that Congress may wish to consider allowing particularly safe carriers with particularly excellent past experience to meet less than the currently required financial responsibility requirements. That would enable safe motor carriers to spend their money on loss prevention measures, rather than spending their money on insurance premiums.

In conclusion, we urge the Congress to assure continued progress through requiring antilock brakes, through encouraging State efforts to implement the Commercial Motor Vehicle Safety Act of 1986, and through improving Federal safety regulatory programs. We applaud you on your past efforts and we pledge our full support for the new initiatives which are contained in the proposed legislation and the other suggestions that we have outlined here today.

Mr. Chairman, thank you very much for this opportunity.

[The statement and questions and answers follow:]

STATEMENT OF THE
AMERICAN INSURANCE ASSOCIATION
BEFORE THE
SURFACE TRANSPORTATION SUBCOMMITTEE
OF THE
SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
APRIL 19, 1989

Mr. Chairman, Members of the Subcommittee, Staff, Ladies and Gentlemen:

The American Insurance Association (AIA) and its 204 members, which write approximately 30% of the nation's commercial automobile insurance, would like to express our appreciation for the opportunity to testify on the critical subject of motor carrier safety. We hope our statement will enhance ongoing Congressional efforts to improve highway safety. I am Dave Snyder, Counsel for AIA. Accompanying me is Ms. Pat Barkdoll of the United States Fidelity and Guaranty Company, Chairman of AIA's Commercial Automobile Insurance Subcommittee.

Throughout the 1980s, Congress has worked to make the highways of this country safer through motor carrier safety legislation. Your continuing oversight has also resulted in significant regulatory progress by the Federal Highway Administration and the States. We respectfully urge the Congress to maintain its leadership role in assuring action on prior safety goals and in setting new safety goals for the future.

The Problem

The annual toll of truck accidents is in excess of 5,500 lives and 170,000 injuries. In addition, indirect costs are significant. A study made by the Institute of Transportation Studies of the University of California at Irvine, found that Los Angeles, alone, loses more than $100,000,000 annually as the result of accidents, spills, delays and cleanups resulting from big truck crashes. Congestion has increased significantly on highways in and about urban areas, and major truck crashes are almost a weekly occurrence on such critical arteries as Washington's Beltway.

Total commercial automobile insurance losses and related expenses have increased 35% since 1985, from $8,911,000,000 in 1985 to $12,031,000,000 in 1988. This dramatic increase has been led by a 49% escalation in liability losses and related expenses, rising from $6,356,000,000 in 1985 to $9,456,000,000 in 1988. See Exhibit 1.

Newspapers from virtually every major city in America routinely carry stories of big truck wrecks, resulting in death, injury, traffic disruption and even environmental harm. Three of the ten largest jury awards in 1988 resulted from cases involving truck crashes.

The Department of Transportation's National Highway Traffic Safety Administration issued a report on heavy truck safety in March 1987. That report found that medium and heavy truck

accidents resulted in 12.8% of all highway accident fatalities and 4.8% of the injuries that occurred in highway related accidents. The report also documented how lethal big truck accidents are to operators, finding that truck drivers sustain 9.3% of all work related fatalities, yet comprise only 1.8% of the employed workforce.

The highway safety problem is often described in terms of the driver, the vehicle and the roadway. Two of the elements, the driver and the vehicle, are the subjects of this hearing.

The March 1987 DOT report found that speeding was the leading driver-related factor contributing to the cause of accidents attributed to combination unit truck drivers, in several studies. Broken, worn-out or inoperative brakes were the leading vehicle-related failure/deficiency contributing to the cause of accidents involving combination unit trucks, according to studies cited in the March 1987 DOT study.

The DOT report noted that one-half to two-thirds of out-of-service deficiencies found in many inspections were brake related. The DOT Report concluded that "these data indicate that the portion of all truck accidents that potentially have brake system issues as a contributing factor could be as much as one-third."

Thus, from many standpoints, unacceptable numbers of commercial motor vehicle accidents with unacceptable costs

continue, although there has been significant progress as a result of Congressional commitment and leadership.

The Solution

A broad-based Consumer Health and Safety Coalition issued an action agenda on numerous safety issues, including motor vehicle safety in February 1989. The agenda contains several important recommendations on truck safety, including: increasing enforcement against unsafe trucks, more stringent operator standards, requiring underride guards, prohibiting radar detectors, mandating antilock brakes and fully implementing the Commercial Motor Vehicle Safety Act of 1986. Congress has already acted on some of these proposals and the legislation at issue today will respond to requests on enhanced enforcement and antilock brakes. Consistent with the Consumer Agenda, we also urge additional action on several other issues.

Implementation of 1986 Act

Congress has acted in recent years to help establish a uniform floor of commercial motor vehicle driver competence. In the Commercial Motor Vehicle Safety Act of 1986, Congress ordered the disqualification of commercial motor vehicle operators for one year and for life for serious traffic offenses, such as drunk driving, one license per driver and operator testing. Since then, the Federal Highway Administration and the states, through the coordination of the American Association of Motor Vehicle

Administrators have moved to implement the legislation. AIA has participated in the process by commenting on some of the proposed regulations to implement the Act and by working with members of the trucking industry, the states and the safety community in drafting model legislation for state enactment. Without all states participating in the program, the safety benefits which are possible as a result of the Commercial Motor Vehicle Safety Act of 1986 could be significantly reduced. Full state implementation is critical.

Speeding

While speeding has been addressed to some extent through disqualification as a serious traffic offense, more needs to be done. As studies cited in the 1987 Department of Transportation report showed, speeding is the major driver error leading to combination vehicle accidents. Whatever the speed limit, it should be vigorously enforced. We urge the Congress to outlaw radar detectors in commercial motor vehicles. Cracking down on the use of radar detectors in such vehicles is the most significant action Congress can take to reduce commercial motor vehicle speeds and the accidents that are caused by excessive speed, short of reducing speed limits.

Truck Brakes

It is, however, in the area of the trucks themselves that progress has been least complete. Despite continued efforts to

bring about the installation of antilock brakes on all new trucks, the United States lags far behind other industrialized parts of the world in this technology. Antilock brake technology is now proven effective through its use by fleets in Europe and in the United Kingdom. I personally interviewed the manager of a major British fleet and his conclusion was simple and clear: all trucks should be equipped with antilock brakes, which result in reduced accidents and other economies, such as reduced equipment wear. In fact, Europe will be requiring antilock brakes on trucks in the early 1990s.

Any final testing on antilock brakes that needs to be done in the United States should be concluded in the very near future, perhaps within the next year. Barring any unforeseen results of these tests, new trucks starting in the early 1990's should be equipped with antilock brakes. We therefore strongly support Section 5 of the proposed legislation which would help assure rulemaking on brakes generally, especially antilock brake systems and better brake compatibility. If anything, we believe Section 5 is too conditional and should require DOT rulemaking, after no more than a year more of testing, to require antilock brakes on new trucks, unless the tests demonstrate some heretofore unknown problems with the current generation of antilock brake systems.

Reinspection of Violators

Next in importance is the provision in Section 7 of the bill which would require DOT to create a system to randomly reinspect

vehicles placed out-of-service for previous infractions. This kind of program focuses regulatory attention on problem motor carriers and defective vehicles. It therefore should produce the greatest safety results, for the least regulatory expenditure. Accordingly, we view Section 7, requiring reinspection of vehicles placed out-of-service for previous infractions, as a critically important measure to improve commercial motor vehicle safety.

Driver Training

We urge consideration of mandatory training for truck drivers. Not only should there be a minimum training standard, but as a driver gets behind a wheel of a new type of commercial motor vehicle, such as a tanker or a double or triple trailer, additional training standards should be met by that driver, if he or she has not been previously trained on that type of vehicle. Because the risk to the public is so much greater with tank trucks or with multiple trailer vehicles, we urge that special and higher training standards be required for drivers of these vehicles.

Conclusion

Congress, the Federal Highway Administration, the states, the safety community, the trucking industry and insurers have all worked to improve losses on the nation's highways from commercial motor vehicle accidents. Unfortunately, too many accidents, too many deatns and injuries, too many traffic tie-ups, too much property damage, and too much environmental impairment continue to

occur. Accordingly, we urge prompt enactment of the proposed legislation, with some additions and amendments. This legislation should also receive wide support because it implements many of the truck safety recommendations recently set forth in the Consumer Health and Safety Agenda.

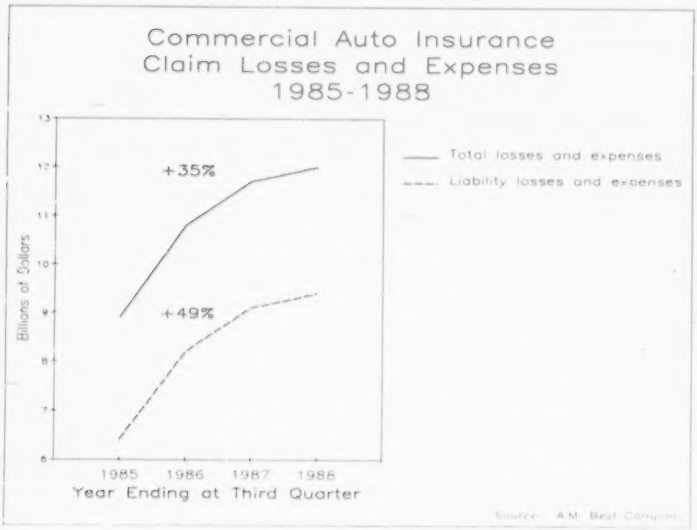

EXHIBIT 1

AMERICAN INSURANCE ASSOCIATION
LAW DEPARTMENT

1130 Connecticut Ave., N.W.
Suite 1000
Washington, D.C. 20036
(202) 828-7100
(202) 293-1219 FAX

June 19, 1989

Senator Ernest F. Hollings
Chairman, Committee on Commerce,
Science & Transportation
United States Senate
Russell 125
Washington, D.C. 20510

Dear Mr. Chairman:

We are pleased to respond to the questions for the record submitted by Senator Kasten.

1. This bill would, among other things, require DOT to publicize the name of motor carriers receiving an unsatisfactory safety rating. Would this information be useful to the public?

The safety of motor carriers is a paramount concern of insurers. We view the availability of safety ratings as critical to sound underwriting and our ability to help with loss prevention and control efforts. However, safety ratings are only as good as the criteria used, the inspection program upon which they are based and follow-up safety enforcement.

Accordingly, to improve the safety rating program, the legislation should establish a numerical rating plan with, for example, ratings of 0-100. In addition, the legislation should guarantee the follow-up of unsatisfactory carriers to assure that all problems are promptly remedied.

2. This bill includes a provision that would prohibit carriers with unsatisfactory safety ratings from transporting hazardous materials or passengers. I would guess that many of these carriers are placed in assigned risk pools in which insurance companies are required to participate. Will our provision take some of the load off these assigned risk pools?

Unless an unsatisfactory rating results in a suspension of a motor carrier's authority to operate, insurance is still required and the pools must still provide it. Although prohibiting unsatisfactory carriers from hauling hazardous materials could reduce exposure to risk, significant risk exposure remains because the unsatisfactory carriers may still be on the road hauling non-hazardous cargoes. That's because many carriers haul non-hazardous as well as hazardous materials. Thus, a substantial improvement in loss experience for the pools may not actually result. Nonetheless, this provision is clearly a step in the right direction.

Thank you for forwarding us these questions and rest assured that we share the Committee's commitment to motor vehicle safety.

Sincerely,

David F. Snyder
Counsel

Senator BRYAN. Mr. Snyder, thank you very much for your testimony.

We will turn next to Mr. Viverette.

Am I pronouncing that name correctly, sir?

STATEMENT OF GEORGE VIVERETTE, DIRECTOR OF HIGHWAY TRANSPORTATION, GOVERNMENT AFFAIRS DEPARTMENT, AMERICAN AUTOMOBILE ASSOCIATION

Mr. VIVERETTE. You are, sir.

Senator BRYAN. Thank you.

Mr. VIVERETTE. Thank you. I am George Viverette, Director of Highway Transportation for the 30 million member American Automobile Association.

We appreciate the opportunity to testify before this Subcommittee and commend it for the recent introduction of the Motor Carrier Safety Act of 1989.

This Committee's commitment to the safety and welfare of the motoring public benefits the millions of motorists travelling daily on our Nation's streets and highways, including those who make their living driving commercial vehicles.

Three years ago, the Commercial Motor Vehicle Safety Act of 1986 was enacted. With its passage, for the first time there is the promise of uniform licensing and regulation of drivers of large commercial vehicles.

Everyone who worked for that legislation can be justifiably proud of its enactment.

Last year, the Truck and Bus Safety Regulatory Act of 1988, which focused on other key aspects of truck safety, especially the vehicle itself, was enacted.

While we were gratified by the progress made with passage of this act, we were disappointed to see that a proposed rulemaking on brake improvements was changed to a report to Congress on whether better brakes are needed.

AAA is, therefore, very pleased with the section of the new bill providing for a DOT rulemaking on the necessity of brake improvements, including antilock brake systems.

Considering that one-third of all truck accidents are by brake failure, substantially improved brakes for large trucks would be welcome relief for the many motorists who must share the road with huge trucks often weighing in excess of 80,000 pounds.

Big trucks requires much longer braking distances and have more unstable braking characteristics than do automobiles. Recognizing that DOT is currently studying the use and effectiveness of anti-lock brakes, AAA believes continued emphasis should be placed on efforts to enable trucks to stop safely in shorter distances without lockup or instability. The technology for anti-lock brakes has been under development and testing in Europe since the 1970's, clearly demonstrating that such systems can work! Starting in 1990, all new large trucks and buses wanting European Economic Community approval must have anti-lock brakes.

In the United States, car manufacturers are already offering anti-lock brake systems as standard equipment on certain models and pickups. The Automotive Information Council [AIC] says this

was done without any impetus from Congress. The anti-lock system automatically pumps the brakes of a car during hard braking or when on a slippery surface. This pumping action prevents the wheels from locking up, which can cause loss of control and skidding. The system can pump the brakes faster than ever the best drivers (between 3 and 15 times per second). The AIC says anti-lock brakes are "the most important advance in braking technology since disc brakes."

While we believe the brake rulemaking is the most important element of the legislation, we also support the other provisions contained in this much-needed legislation. We support requiring DOT to make publicly available the names of all motor carriers receiving an unsatisfactory rating from the Federal Highway Administration.

We agree that trucks owned by carriers receiving unsatisfactory ratings should never haul hazardous materials. Indeed, we believe such carriers' vehicles should be removed from service entirely.

To enforce motor carrier compliance with safety standards, we support section No. 9 of the bill requiring DOT to set forth procedures requiring FHWA inspectors to initiate an enforcement action against any motor carrier found guilty of a serious safety violation. In an effort to establish income parity among FHWA inspectors and that of FRA and FAA inspectors, AAA supports granting pay raises to the FHWA inspectors. Doing so will also enable FHWA to keep their experienced inspectors in the field while continuing to insure carriers are subject to adequate, professional inspection.

While AAA supports the concept of randomly reinspecting vehicles which were placed out of service for previous infractions, such a program would be worthwhile only if the implementation is feasible. We believe it is crucial that a system of accountability be established for reinspection to be truly effective in removing unsafe trucks from the highway.

Concerning truck visibility—research conducted by the University of Michigan Transportation Safety Institute indicates the most significant disadvantage of driving at night is limited sight distance, resulting in less time to react to unexpected circumstances. Considering that better than 50 percent of accidents occur at night, even though traffic volumes are considerably less, AAA believes all highway users would benefit from greater nighttime conspicuity of large trucks, and, therefore, supports efforts to enhance retroreflectivity.

Clearly, enactment of S. 819 would improve the safety of commercial motor vehicles. This is important legislation, and we applaud your efforts and commitment to enhancing the level of safety afforded all motor vehicle operators and passengers.

Thank you.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR KASTEN AND THE ANSWERS

Question. This bill would, among other things, require DOT to publicize the name of motor carriers receiving an unsatisfactory safety rating. Would this information be useful to the public?

Answer. The American Automobile Association believes that requiring DOT to publicize the names of all motor carriers receiving an unsatisfactory safety rating is an important step in improving truck safety. The adverse publicity gained would encourage shippers and others to use carriers that are safety conscious and comply with federal motor carrier safety regulations. It is our understanding that currently it is difficult to obtain the names of carriers that receive unsatisfactory safety ratings. S. 819 will greatly improve that effort.

Question. This bill includes a provision that would prohibit carriers with unsatisfactory safety ratings from transporting hazardous materials or passengers. I would guess that many of these carriers are placed in assigned risk pools in which insurance companies are required to participate. Will our provision take some of the load off these assigned risk pools?

Answer. AAA's Insurance Service executives say this provision would take some of the load off of assigned risk pools and would be welcomed by insurance providers.

STATEMENT OF ED JACK COMPTON, JR., REPRESENTING THE TEXAS TRUCK SAFETY ALLIANCE, MANAGER OF SAFETY AND HEALTH, HOUSTON LIGHTING & POWER

Mr. COMPTON. Mr. Chairman and Members of the Subcommittee, I am Jack Compton, Manager in Safety and Health for Houston Lighting & Power Co., Houston, TX.

I am appearing before you today on behalf of the Texas Truck Safety Alliance, which represents businesses and trade associations who operate their own, not-for-hire, intrastate service and delivery vehicles in Texas, such as soft drink bottlers, outdoor advertising firms, wholesale beverage distributors, electric cooperatives, utility companies, and general construction contractors.

I am accompanied today by Mr. John Chwat of Chwat/Weigend Associates, the Texas Truck Safety Alliance's Washington representative.

Our alliance is concerned that the U.S. Department of Transportation, in implementing motor carrier safety laws, has forced Texas and other States to impose Federal requirements on intrastate, not-for-hire, service and delivery vehicles which do not promote safety and which unfairly impose unnecessary costs, which must be passed on to the general public.

While evidence suggests that persons who drive interstate, for hire, over long distances, need to have their vehicles inspected several times daily, or submit to periodic physical examinations, or pass written tests and driving tests, or keep detailed logs of their on-duty time and driving time, or to comply with other requirements; our Alliance believes that no greater safety will result from forcing the States to adopt these federal requirements for interstate vehicles and impose them on intrastate vehicles.

We would like to make the following requests to the Congress related to motor carrier safety legislation to be considered this Session.

The Texas Truck Safety Alliance believes that the United States Congress should exempt certain types of intrastate, not-for-hire, service and delivery vehicles over 10,000 pounds from the requirements of the Federal Motor Carrier Safety Act of 1984.

At this time, Mr. Chairman, I would like to ask permission to include the Texas Truck Safety Alliance's comments to the DOT on their present rulemaking regarding Federal Motor Carrier Safety Regulations for the permanent record.

Senator BRYAN. That will be incorporated by reference.

Mr. COMPTON. Thank you.

Your attention is directed to pages 5 and 6 of our comments to DOT on raising the weight thresholds and exempting vehicles by function.

The economic impact of including all intrastate vehicles under stringent Federal requirements is staggering. For my company alone, the cost associated with compliance under the regulations is approximately $7 million per year. The bulk of the costs will be added expense of hiring additional personnel and purchasing additional equipment to maintain current electric service under Parts 395.8, 395.11, and 395.12 of the FMCSR. Approximately $500,000 in additional costs is projected to cover additional training and documentation.

It is estimated that there are over 340,000 vehicles in Texas which weigh more than 10,000 pounds, and are used for business purposes.

The Texas Truck Safety Alliance estimates that the full costs of compliance for Texas vehicles in the over 10,000 pound category would be well over $408 million.

Physical exams and annual tests would quickly add tens of millions of dollars more to the annual costs. These staggering costs would be passed on to consumers, and add to inflation.

The safety records of our Texas Truck Safety Alliance members is good among intrastate operators. This safety consciousness exists not only under state law but also as safe company practices. Houston Lighting and Power, for instance, maintains an active Fleet Safety Program specifically designed for Houston Lighting and Power drivers and the service area.

The program consists of a comprehensive driver training program for all types of vehicles, accident investigation analysis, and counselling for employees involved in traffic accidents.

It is noteworthy that Houston Lighting and Power Company's safety program has been adopted in part or in its entirety by various police departments, state and national organizations, and other electric utilities.

The Texas Truck Safety Alliance believes that an exemption for intrastate vehicles at the federal level would further enhance public safety, by allowing the Federal Highway Administration to redirect efforts and resources toward the regulation of those vehicles employed in interstate commerce. We believe that it is in the public's best interest if our state legislature in Austin, Texas, determines motor carrier safety laws for intrastate carriers in Texas.

To illustrate my point, I have attached two laws, one from the State of Indiana, the other from the State of Oregon, to my statement, and ask that they be included in the record of this hearing.

Senator BRYAN. They will also be included by reference.

Mr. COMPTON. The Indiana Public Law 92 became effective on May 1, 1986. Section 2 of the law exempts private carriers of property operated in intrastate service, construction vehicles, and others, from certain federal regulations, including those that regulate hours of service of drivers and those which require maintenance logs.

Oregon Statute 767.455 authorizes the Oregon Public Service Commission to issue an administrative rule, effective July 21, 1988,

which exempts employees who operate private carrier motor vehicles less than 40 percent of a given work day from certain federal requirements.

The Oregon rule also contains several criteria for additional exemptions.

The Texas Truck Safety Alliance believes that the States desire to exempt intrastate vehicles from certain federal motor vehicle safety requirements, and we seek the help of the Congress in allowing them to do so.

Thank you.

[The statement and questions and answers follow:]

STATEMENT OF

JACK COMPTON, JR., MANAGER, SAFETY AND HEALTH

HOUSTON LIGHTING AND POWER COMPANY

FOR THE

TEXAS TRUCK SAFETY ALLIANCE

BEFORE THE

SURFACE TRANSPORTATION SUBCOMMITTEE

OF THE

SENATE COMMERCE, SCIENCE AND TRANSPORTATION COMMITTEE

APRIL 19, 1989

Mr. Chairman and members of the subcommittee, I am Jack Compton, Manager of Safety and Health for the Houston Lighting and Power Company in Houston, Texas. I am appearing before you today on behalf of the Texas Truck Safety Alliance which represents businesses and trade associations. The businesses and members of the trade associations which belong to our Alliance operate their own, not-for-hire, intrastate service and delivery vehicles. Our Alliance includes such groups as soft drink bottlers, outdoor advertising firms, wholesale beverage distributors, electric cooperatives and utility companies and general construction contractors.

Our Alliance is concerned that the U.S. Department of Transportation, in implementing motor carrier safety laws, has forced Texas and other states to impose onerous federal requirements on intrastate, not-for-hire, service and delivery vehicles which do not promote safety and which unfairly impose unnecessary costs

which must be borne by the public. Tne hammer being held over the states is the potential loss of federal funds for highway programs. Mr. Chairman, our intrastate service and delivery vehicles have good highway safety records, and our Alliance feels that we are not the target of these regulations.

We believe that federal motor carrier safety laws are directed towards certified carriers operating interstate, with heavy loads over long distances carrying other people's goods in competition with other carriers. When federal motor carrier xafety laws were adopted, the evidence suggested that unsafe equipment operated by fatigued interstate drivers compromised public safety on our Nation's highways. With regard to interstate, for-hire carriers, we agree that such laws are in the public interest.

While evidence suggests that persons who drive interstate, for-hire, over long distances need to have their vehicles inspected several times daily, or submit to periodic physical examinations, or pass written tests and driving tests, or keep detailed logs of their on-duty time and driving time, or to comply with other requirements; our Alliance believes that no greater safety will result from forcing the states to adopt the federal requirements for interstate vehicles and impose them on intrastate vehicles.

Accordingly, we would like to make the following requests to the Congress relating to motor carrier safety legislation to be considered this Session:

EXEMPT INTRASTATE VEHICLES

The Texas Truck Safety Alliance believes that the U.S. Congress should exempt certain types of intrastate, not-for-hire service and delivery vehicles over 10,000 pounds from the requirements of the Federal Motor Carrier Safety Act of 1984. We concur with the Delaware Department of Public Safety's recent petition to the Federal Highway Administration requesting that states should be considered as "qualified" for federal funding under the Federal Motor Carrier Safety Assistance Program. The Delaware Department said that such a revision would permit states to focus their enforcement activities on "larger motor vehicles." We could not agree more. I have attached a copy of the State of Delaware's letter to my statement, and ask that it be included in the record of this hearing.

As a result of the Delaware petition, the Federal Highway Administration has expanded its scope of inquiry into a wholesale re-evaluation of the definition of commercial motor vehicles within the context of the Federal Motor Carrier Safety Regulations. In fact, some of the questions posed by the Federal Highway Administration in its rulemaking, contemplate the consideration of exemptions for certain classes of vehicles.

I have also attached a copy of the Federal Highway Administration's advanced notice of proposed rulemaking to my statement and ask that it be included in the record of this hearing.

The Texas Truck Safety Alliance urges the Congress to take the lead in this area and exempt certain intrastate, not-for-hire, service and delivery vehicles from the federal motor carrier safety laws, thereby giving the states a free-hand in regulating them as the local situation warrants.

COSTS OF COMPLIANCE ARE UNFAIR

The economic impact of including all intrastate vehicles under stringent federal requirements is staggering. For my company alone, the costs associated with compliance under the regulations are approximately $7 million per year. The bulk of the costs will be the added expense of hiring additional personnel to maintain current electric service under Parts 395.11 and 395.12 of the FMCSR. Approximately $.5 million in additional costs is projected to cover additional training and documentation. While Houston Lighting & Power Company has not attempted to estimate the cost impact on electric consumers statewide of these regulations, it will certainly be substantial!

It is estimated that there are over 340,000 vehicles in Texas which weigh more than 10,000 pounds and are used for a business purpose. In seminars conducted by The Texas Department of Public Safety the study material and recommended log books suggested that the time needed to comply with federal requirements for intrastate vehicles weighing 10,000 pounds or more would take approximately one hour per day, per vehicle. Assuming that each vehicle operates 240 days per year and applying a $5.00 per hour rate, the full cost of compliance for Texas vehicle

operators would be over $408 million. Physical exams and annual tests would quickly add tens of millions of dollars more to the annual cost.

These staggering costs would be passed on to customers, and add to inflation. Unreasonably high costs of operation is not, we feel, what the Congress intended when it adopted the Motor Carrier Safety Act of 1984.

SAFETY RECORD IS HIGH AMONG INTRASTATE OPERATORS

The safety records of our Texas Truck Safety Alliance members is high among intrastate operators. This safety consciousness exists not only under state law but also as safe company practices. Houston Lighting & Power Company's Safety/Health, for instance, maintains an active Fleet Safety Program specifically designed for Houston Lighting & Power Company drivers and service area. The program consists of a comprehensive driver training program for all types of vehicles, accident investigation analysis and counseling for employees involved in traffic accidents. In addition a comprehensive ongoing maintained program is in existence at our company. For a further description of the program, I have attached a copy of my testimony filed with the Railroad Commission of Texas in support of Houston Lighting & Power Company's application for self-insurance.

Since the development of Houston Lighting & Power Company's Fleet Safety Program in 1981, the company's vehicle accident frequency has decreased by approximately 69 percent. Addi-

tionally, Houston Lighting & Power actively participates in various organizations such as the National Safety Council, Texas Safety Association, Texas Motor Transportation Association, etc. to keep personnel abreast of current safety-related laws and issues. It is noteworthy that Houston Lighting & Power Company's safety program has been adopted in part or in its entirety by various police departments, state and national organizations and electric utilities.

Of course, electric utilities are not unique in their concern for highway safety. John McMillan, who is one of the Texas Truck Safety Alliance members, and who is Chairman of the Coors Distributing Company located in Fort Worth, Texas, said

> "Safety is a high priority phase of our business. We have regular safety meetings that emphasize good driving manners, as well as safe operation of vehicles. Employees work hard to earn bonuses and awards we offer to those with exceptional safety records. Every delivery vehicle we operate leaves our place of business each work day morning, and returns the same day. We have no fatigued drivers operating unsafe, overloaded trucks cross-country. In fact, the people who operate our vehicles are salesmen. They work on commission. As salesmen, we teach them to create good will. Safe, polite driving habits are part of our on-going training.
>
> Every delivery vehicle we own is identified with our product trademark. Every route salesman wears a uniform with our producer tradesmark and his name on the front of his shirt. Our salemen even wear neckties. They start the day with a clean uniform, a fresh shave, and shoes shined. The good will we enjoy in the community is dependent, in large part, on the polite, safe driving habits and good manners of our route salesmen.

It is unfair and improper to put us under the same rules that should apply perhaps to fatigued drivers operating unsafe, over-loaded trucks cross-country. We don't go cross-state. We hardly go cross-country. We do go cross-city."

EXEMPTION WOULD ASSIST THE STATES

The Texas Truck Safety Alliance believes that an exemption for intrastate vehicles at the federal level would further enhance public safety, by allowing the Federal Highway Administration to redirect its efforts and resources towards the regulation of those industries which are the target groups of these regulations -- such as motor carriers with large trucks and buses employed in interstate commerce and also running unrestricted in commerce zones. We believe that it is in the public's best interest if our state legislature in Austin, Texas determines motor carrier safety laws for intrastate carriers in Texas.

To illustrate my point, I have attached two laws, one from the State of Indiana and the other from the State of Oregon, to my statement, and ask that they be included in the record of this hearing.

The Indiana Public Law 92 became effective on May 1, 1986. Section 2 of this law exempts private carriers of property operated in intrastate service, construction vehicles, and others, from certain federal regulations including those that regulate hours of service of drivers and those which require maintenance logs.

Oregon Statute 767.455 authorizes the Oregon Public Service Commission to issue an administrative rule, effective July 21, 1988, which exempts employees who operate private carrier motor vehicles less than 40 percent of a given work day from certain federal requirements. The Oregon rule also contains several criteria for additional exemptions.

The Texas Truck Safety Alliance believes that states desire to exempt intrastate vehicles from certain federal motor vehicle safety requirements, and we seek the help of the Congress in allowing them to do so.

Thank you.

SCHWAT/WEIGEND ASSOCIATES
GOVERNMENT & PUBLIC RELATIONS
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1989 JUN 22 AM 10:16

June 20, 1989

Senator Ernest F. Hollings, Chairman
Senate Committee on Commerce, Science
and Transportation
Room SD-508
U.S. Senate
Washington, DC 20510

Dear Chairman Hollings:

On behalf of our client, the Texas Truck Safety Alliance, which was represented by Jack Compton, Jr. at the Surface Transportation Subcommittee's April 19, 1989 hearing on motor carrier safety, we are responding to Sen. Kasten's two written questions for Panel III.

In his testimony before the Subcommittee, Mr. Compton did not specificially address S.819, the Motor Carrier Safety Act of 1989, introduced by Sen. Exxon and referred to in Sen. Kasten's questions. Rather, he requested that in any motor carrier legislation to be considered during this Session of Congress, an exemption from the Federal Motor Carrier Safety Act of 1984 should be made for certain types of intrastate, not-for-hire service and delivery vehicles over 10,000 pounds.

Since the focus of the Alliance is only on the exemption issue, it does not have enough information to make a useful comment on the subjects posed by Sen. Kasten's questions.

Sincerely,

Robert E. Weigend

Senator BRYAN. Thank you very much, Mr. Compton.
Mr. Turpin.

STATEMENT OF RAINEY TURPIN, DIRECTOR OF SAFETY TRANSPORT DIVISION, AMERICAN INTERNATIONAL GROUP INSURANCE CO.

Mr. TURPIN. Thank you, Mr. Chairman.

My name is Rainey Turpin. I am the Director of Safety for the American International Group Transport Division. We insure only long-haul trucking and intra- and inter-state busing companies throughout the United States.

As Safety Director for that function, our position in regard to S. 819 differs somewhat from some of the opinions previously expressed insofar as a couple of key issues are concerned.

The Office of Motor Carrier Safety and Commercial Vehicle Safety Alliance are currently addressing the noted commercial motor vehicle braking systems, serious safety violations, imminent hazards to safety, truck visibility and the timely correction of equipment violations through both proposed rulemaking as well as on-site or roadside type inspection procedures.

These efforts involve assistance and input from commercial vehicle system manufacturers, trucking industry safety experts, law enforcement personnel from Canada and the United States through the CVSA effort, and trucking industry executives.

Since state of the art technology is being developed within each of these related proposals, these present efforts will allow for better response to improvements than mandated statutory requirements.

The Motor Carrier Safety Rating Procedure has been compromised by the deregulation of the trucking industry. The previous economic impact against a motor carrier's ICC operating authority promoted a significant safety awareness.

Today, with the ease of obtaining ICC authority and the proliferation of certificated motor carriers—many of these are small fleets, as has been previously indicated; of the 185,000 certificated carriers, nearly 155,000 to 160,000 of them operate less than six units—in that, there has been a significant reduction in the impact of authority-related enforcement actions.

Motor carriers can merge, change their name, apply for a like-authority, or simply lease their trucks to another motor carrier, expanding their fleet, and remain in the trucking industry.

The insurance industry encounters these "alternative actions" regularly. In response, a system of on-site safety and compliance inspections has been established by some insurance companies, to include my own company.

This procedure allows for an in-depth review of a motor carrier's operation. This is broader than a compliance-only survey in that it reviews the carrier's accident prevention efforts, as well as their compliance program.

Often the economic impact of a cancellation of coverage or rate increase will better focus a motor carrier's commitment to a proactive accident prevention program.

Of significant impact to the insurance industry's involvement in trucking has been the initially proposed mandated training requirements—initially proposed in this bill.

Development of a Professional Truck Driver Institute of America over the past three year, and at an estimated cost of $1,000,000 in privately donated funding, has been a cooperative effort of the United States DOT, the National Transportation Safety Board, the Commercial Motor Vehicle Manufacturers Association, trucking executives, driving school operators, both proprietary as well as publicly funded schools, truck drivers and insurance safety experts.

They have evaluated and prepared a truck driver training curriculum. This can take a person without any truck driving experience and properly prepare him to enter the trucking industry with a high potential for career success and safe commercial vehicle operation.

The curriculum is based entirely on the 1984 Federal Highway Administration's Proposed Minimum Standards for Training Tractor-Trailer Drivers and the 1986 Model Curriculum for Training Tractor-Trailer Drivers.

The PTDIA conducts on-site evaluations of those training facilities requesting certification. This includes over 100 aspects of the training operation.

Since the program has just been finalized and is voluntary, eight schools have attained certification. Seven are proprietary schools; one is an interstate motor carrier's school.

This represents an estimated 13,000 truck drivers per year being properly prepared to safely operate commercial motor vehicles throughout the United States.

The significance of this effort has recently been recognized in a March 9, 1989 letter from Mr. James Kolstad, Acting Chairman of the National Transportation Safety Board.

Therein he noted that "The training school certification program of the PTDIA is now operational; certification constitutes a significant achievement in highway safety. It brings this Nation closer to the day when all drivers of heavy trucks will have received formal training through qualified courses of study. The Safety Board is proud of its role in encouraging and supporting the PTDIA in this effort."

It would appear, then, that the initial intent of that proposed training legislation can be easily realized through the private sector in an effort such as the PTDIA. This is a private, nonprofit organization.

The PTDIA then should be designated by the Congress as the agency responsible for certifying the curriculums of all truck driver training schools. This would operate in the same manner as the NCAA functions in college athletics, the Joint Commission of Hospital Accreditation functions in monitoring health care facilities, or the American Bar Association in qualifying law schools and overseeing officers of the court.

Certainly, the system and standards are in place, recognized and supported by the trucking industry, the insurance industry, and the Federal Government.

This designation for the PTDIA as the curriculum certification agency for truck driving schools would also relieve the impact of

the proposed legislation as it would impact the strained financial and personnel resources within the Department of Transportation.

That designation would also agree with the NTSB's recognition that this private industry initiative has, in fact, accomplished a significant achievement in highway safety.

Thank you very much, Mr. Chairman.

[The following information was subsequently received for the record:]

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A Member Company of
American International Group, Inc.

June 16, 1989

The Honorable Ernest F. Hollings - Chairman
Committee on Commerce, Science, and Transportation
United State States Senate
Washington, D.C. 20510-6125

Senator Hollings:

The publication of those motor carriers receiving an unsatisfactory safety rating to the public by the DOT would only serve as a possible embarrassment to the carrier. No purpose would be served by the requirement. We in the insurance industry have access to these ratings through the Central Analysis Bureau.

The CAB rates a motor carriers financial condition specifically for the insurance industry. The rating is often a determining factor in an underwriter's decision as to providing insurance to a particular motor carrier. Because of the weight afforded the CAB report, an underwriter will probably be more responsive to the safety rating now than if it were generated by the DOT - an agency with varying levels of recognition within the insurance industry.

The assigned-risk situation is a self-defeating but well-intentioned effort. While the concept is justified and effective for those private citizens not qualifying for standard auto coverages it fails when used for commercial vehicles.
A commercial fleet is "subsidized" by the state and the insurance industry when it goes "into the pool".

Pool rates are often much lower than standard or "loss experience rated" policies. The carrier has no incentive to improve his safety and compliance effort if he can get his required insurance at "cheap rates" and still maintain the operational policies that placed him in the pool initially.

To be effective a commercial fleet should not be allowed access to "assigned risk/pool coverages". They should pay the rates his accident experience justifies. To lower his insurance costs he should operate in a safe and compliant manner. In fact, "pool

coverages" penalize those carriers trying to maintain a safe operation by:

1. Allowing less-safe carriers to continue in operation, and;

2. Pay the same or, often, lower insurance rates as the safe carrier.

This is not a "level playing field" situation. Effective safety programs are expensive investments in trained safety persons, driver selection/training procedures, equipment maintenance programs and proper on-road monitoring efforts. Pool covered fleets can circumvent any of these efforts and costs. They still operate because of the state "subsidy". Counter productive, dangerous, illogical, unsafe? Yes. But also short-sighted and myopic.

Safety ratings do not affect access to these "gifts" from state assigned risk pools. A suggestion - the safety rating and actual accident experience should determine a commercial fleets "pool" rates. If a carrier has a high accident rate he should pay an extremely high rate. Then the safety incentive becomes financial and we have the carrier's attention. He will straighten out his operation or get out of the business. Either way we all win: his accidents go down, his insurance rates become more reasonable, his safety rating improves and, most importantly, the public is protected.

Hazardous material and passenger transporters are too narrow a focus for the subject. All motor carriers and bus companies should be satisfactory or face a pre-determined "cease/desist" date.

Thank you for the opportunity to respond to Senator Kasten's questions.

Sincerely,

Rainey Turpin
Director of Safety

Senator BRYAN. Thank you very much, Mr. Turpin. We appreciate your testimony.

A number of Members of the Subcommittee I am sure may have additional questions. We'd appreciate the panel's response to them when submitted.

Let me ask a couple of questions, if I might here.

With respect to the antilocking brakes that you are talking about, I think, Mr. Cook, you indicated that the European Economic Community is going to implement such a rule. Is that in 1992?

Mr. COOK. It's 1991.

Senator BRYAN. Tell me what the law is now and what is the objection to the antilock brake if it is the technological advance that I think both you and Mr. Snyder addressed. What is the argument against it?

Mr. COOK. Well, you may be asking the wrong person about what is wrong with them. We don't find that there is anything wrong with them.

Shortly after the previous requirement for them in the U.S., they were put on hold, if you will. There is a common mis-belief that the 121 standard has been killed. A court case ruled that the federal regulation requiring antilock brakes on big trucks should be set aside, but it is not killed.

Let me just say that in some of the early systems, there were some bugs, and it soured much of the trucking community on the use of antilock brakes. About the time the court case came along, those bugs had been solved.

It is evidenced by the fact that around the world they are being used. The systems that were designed and the technology that was created in this country are being installed in big trucks all over the world. And yet, we do not have anything that requires them in this country.

They are a proven technology and, to the extent that the agency in this country is dealing with the subject—I did not get to it, but it is in my testimony—they are undertaking a two-year study, and their progress to date on the study is that by the end of next month, they estimate that they will have taken delivery on all 200 tractors.

This was started last year. They will take delivery on the rest of the 200 tractors next month. Six months after that, they will begin putting antilocks on trailers, so that according to department officials it will be the late fall before this study gets underway. On a 2-year timetable, then it will be May 1991 before the fleet experience is all gathered.

I might suggest to the Committee that the report might not be issued until some time after that. Experience tells us that once the data is in, the report itself is not always forthcoming.

The legislation last year requires this report no later than January 30, 1991.

By the way we look at the calendar, starting this late, I just don't see how that can happen.

Senator BRYAN. Mr. Cook, are we to infer from your comment that there has been a notable lack of enthusiasm on the part of the

agency in your opinion, or is there a legitimate problem that has developed?

Mr. COOK. There is a noticeable lack of enthusiasm in the department for this concept. Yes, sir.

Senator BRYAN. Mr. Snyder, is there anything that you might want to comment on? Then we will hear from Mr. Turpin. This is with respect to the antilock brake issue.

Mr. SNYDER. Yes.

I personally interviewed a British fleet manager, many of whose trucks had been equipped with antilock brakes, and he had this to say after a fairly lengthy conversation: "If we lose a truck with antilock brakes, then there is nothing on earth that would have stopped it."

I think that is the finest recommendation that you can get for a piece of technology. That was the result of more than a decade of experience.

Furthermore, if anything occurs to the current generation of antilock technology, if anything happens to the computer circuitry, then the brakes simply function as they ordinarily would on the vehicle.

So the braking is at least as good as it is now, and, with antilocks, much better.

Senator BRYAN. Mr. Snyder, a question, if I might. If the standard is fully implemented, are we talking about a standard that would require their installation prospectively or would the standard require retrofitting?

Mr. SNYDER. We would like to see a date set in the future, some time in the early 1990s, when all new vehicles would come equipped with antilock brakes, and then, hopefully, there can be development of cost effective ways to retroactively place them on existing vehicles.

Senator BRYAN. I appreciate that.

Mr. Turpin, I think you had a comment.

Mr. TURPIN. Yes, sir.

In conversations with the Office of Motor Carrier Safety, I would take issue with Mr. Cook's comment. They do have a very sincere interest in seeing this come about.

The previous 121 standard basically destroyed the credibility of that system within the industry. It caused an add-on cost both in the production and manufacturing of tractors and trailers, but also in the accident experience of that equipment once it was on the highway. It resulted specifically in some deaths and injuries that were derived from the mis-operation of the previous 121 braking system.

Because of that, there has been a hesitancy to just launch wholeheartedly into a program that is still under that same proposal.

Senator BRYAN. Let me ask you this. What is the position of your association? Do you favor a standard that requires a time certain that antilock brakes be required?

Mr. TURPIN. Yes, sir. As the technology becomes available, it should be brought on.

Senator BRYAN. I used to practice a little law, and that kind of strikes me as being "weasel words," with all due respect.

Mr. TURPIN. That's all right.

Senator BRYAN. Just so that we know what your position is, I am not trying to argue or quarrel with it. Should there be a time certain, or is it your position at this point that it is such an uncertain technology that we need to do a lot more study before something is required?

Mr. TURPIN. No. I think that there can be a date established once the product has proven itself; but not an arbitrary date, some date in the future, saying that by that time Bendix, Westinghouse, and all these other people will have had the opportunity to properly prepare when previously they had an opportunity and it didn't work. It killed some people.

So that is fine. Now let's do it properly this time and make sure that the system that we are going to require will, in fact, work.

Senator BRYAN. Your position, then, is that there is a technology threshold that we are yet to cross, so that any discussion of imposing a time certain today, whether it be 1991, 1992, 1993, would be inappropriate?

Mr. TURPIN. Without the input from the manufacturer, yes, sir, it would be.

Senator BRYAN. Thank you very much.

We have been rejoined by the Chairman, and I will yield the gavel to him.

Thank you, Senator.

Senator Exon [presiding]. Senator Bryan, thank you very much. We appreciate your coming over.

Gentlemen, I will have some questions of you that I will submit to you in writing and ask that you reply as quickly as you can, as is convenient.

We appreciate very much the fact that you came today. We apologize for being interrupted on several occasions because of what is going on all over this place this morning.

Thank you for being here and for your very valuable testimony. We thank you and you are excused.

We will now call panel number four: Mr. Donald Estes, Chairman of the Professional Truck Drivers Institute of America, and Mr. Earl Eisenhart, Executive Director of the Commission for Accredited Truck Driving Schools.

Mr. Estes and Mr. Eisenhart, would you take your places at the witness table, please.

I would first advise you that, without objection, the full statements that you have submitted to the Committee will be accepted into the record.

I would ask at this time if you each could give us a summary of your statements. Then we will have some questions.

We will start, Mr. Estes, with you.

Welcome.

STATEMENT OF DONALD W. ESTES, CHAIRMAN, PROFESSIONAL TRUCK DRIVERS INSTITUTE OF AMERICA; ACCOMPANIED BY BEVERLY WALKER, SECRETARY AND MEMBER OF THE BOARD

Mr. ESTES. Good morning and thank you, Mr. Chairman.

My name is Don Estes, and I am chairman of the board of directors of the Professional Truck Drivers Institute.

I have had the pleasure of serving on that committee as an officer and a director for the past 3 years.

I am also executive vice president for governmental affairs for Ryder Systems, Inc.

I have with me Beverly Walker, who is Secretary and also a Board member of the Professional Truck Drivers Institute of America.

We do appreciate all the support we have received from the previous panel members on our association and institute, and we appreciate their comments very much. Some of this will be repetitive because of that. But I think it is important that I go ahead and proceed with my comments.

The Professional Truck Drivers Institute of America is a nonprofit organization devoted to promoting proper training and professionalism among truck drivers.

The Professional Truck Drivers Institute is a private sector initiative of the trucking industry, created in response to a perceived need. The Professional Truck Drivers Institute of America enjoys broad-based support from all segments of the trucking industry. More than 300 members and associates have contributed nearly $1 million to the Institute.

This support comes from truck operating companies, truck leasing companies, insurance companies, parts, tires and components manufacturers and suppliers, financing companies, owner-operators, drivers, and all major industry trade associations.

The Professional Truck Drivers Institute certifies the adequacy of driver training programs and the training received by the students. The Institute's certification criteria are based on proposed minimum standards for training tractor and trailer drivers. We have a manual which sets forth all of this information.

It also complies with the model curriculum for training tractor and trailer drivers established by FHWA

Individual training courses are measured against 108 specific criteria in areas, and we have a booklet where any potential employer can test the qualifications that have been submitted, or that are required.

We test criteria in areas such as instructor qualifications, the curriculum, the equipment being used, physical facilities, the hours of instructions received in the following areas: classroom, the laboratory, and behind the wheel.

To date, the Professional Truck Drivers Institute has certified eight institutions offering 37 courses of instructions at 19 geographic locations. This year, more than 15,000 students will graduate from courses already certified by the Professional Truck Drivers Institute.

We just completed our certification in December 1988, our first certification of any institution.

Through an agreement with DAC, Inc., graduates of the Professional Truck Drivers Institute's certified courses can be identified, and their completion of certified courses verified by potential employers.

Information regarding the careers and safety records of these graduates can also be compared with records of other drivers.

A number of carriers have announced they will hire entry-level drivers only from Private Truck Council certified courses.

In today's very competitive trucking industry, companies will increasingly demand safe, well-trained drivers to help control costs. The National Safety Council estimates that for every dollar insured cost in a accident, there are $8 of uninsured costs. This would include Workmen's Comp, customer's goodwill, et cetera.

Several insurance companies have also announced that they will or are considering insuring carriers only if they hire entry-level drivers from certified courses.

The Professional Truck Drivers Institute of America fills an important void by focusing only on the quality of the training of the student.

In summary, I am pleased to report that the Professional Truck Drivers Institute has made significant strides in improving the training of entry-level drivers.

I thank you for the opportunity to appear today to report on the work of this Institute, a private industry initiative that is working.

Thank you, Mr. Chairman.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR EASTEN AND THE ANSWERS

QUESTION. What do you see as the key to a successful truck driver training program?

1) Is it in the number of hours a student spends driving a truck?

2) Is it the quality of instruction?

3) Is it the quality of the Curriculum?

RESPONSE:

If a truck driver training program is to be successful, it must have sufficient hours of student practice driving with instruction and Curriculum of good quality. The topics identified in the principal question are all critical components of a good training program and are not mutually exclusive. To have one or two of the components without the other would provide poor quality training.

If the question posed uses the word "key" in the sense of which of the three items (driving hours, instructional quality or quality of the Curriculum) is the most important, then clearly the quality of Curriculum is of the highest order of importance. We place this extra value on Curriculum quality because Curriculum in the context of the requirements of PTDIA, is the totality of the course of study including what is taught, where, when and how. That Curriculum has been established by the Institute based on input from experts from the motor carrier industry, the field of general education and the truck driver training industry. It represents consensus from those advisors on best practice in training and essentials in preparing a novice driver to carry out the competencies of the tractor trailer driver vocation. Additionally, and in large part, the Curriculum is based on the suggested Curriculum published by the then Bureau of Motor Carrier Safety, (now Office of Motor Carrier Safety) of the Federal Highway Administration in 1986.

If the question considers "Curriculum" in regard to just the subjects taught as is often a common more restricted use of the word, we still feel it to be of the greatest importance. Any tractor trailer driver training program that does not teach a complete range of subjects can not provide adequate training for entry level drivers. To be adequate those subjects must prepare students in all of the competencies that are required of the professional driver.

The foregoing is not intended to downgrade the importance of the number of hours a student spends driving a truck or the quality of instruction. Certainly as a subject in the overall Curriculum in truck driver training, actual practice driving is an essential activity. It is of particular importance because many of the persons now being trained to drive large commercial vehicles have never driven anything larger than a passenger car. The more difficult question is: How much actual behind the wheel or hands on practice driving should each student receive? The simplistic answer to that is: Enough to drive the truck. Therein lies the difficulty of the question. How much is enough? Some may think enough to pass a state driver's test, some may say for so many miles. There is no specific perfect answer to the question. The Institute has taken the position based on the recommendation of trainers and motor carrier driver supervisors, that a minimum of 44 hours BTW in range (off highway) and street or highway driving, plus demonstrating performance capability thru testing, is the most practical. That assures some reasonable amount of instructor supervised driving practice as well as testing individual performance. Actual supervised driving time for individual students is often far less than required by PTDIA in many public and private schools not certified by the Institute.

The quality of instruction is of course also important, because with inadequate instruction both actual driving practice and other Curriculum subjects can be valueless to the preparation of entry level drivers. The instructor and instructional systems are the delivery vehicle by which students learn what has been structured into the adequate Curriculum. Like poor cooking of quality food can ruin a special dinner menu, poor instruction can destroy the effectiveness of the best Curriculum.

In summary, the question(s) posed can not be answered simplistically with a yes or no because of the complexities of the truck driver vocation. In a sense, the Committees' consideration of these points is not unlike what the Institute and its advisors went through in the development of its criteria to evaluate the adequacy of truck driver training courses. No one item is totally precedent in training truck drivers and we could not pick one major function of training to base our evaluation on. For that reason as indicated in the Criteria and Curriculum booklets that accompany this response, we utilize 107 individual standards in 12 standard areas to guide tractor trailer driving schools in adequate training and to evaluate the adequacy of their courses.

Senator EXON. Thank you, Mr. Estes.
Mr. Eisenhart, we welcome you.
Would you please proceed.

STATEMENT OF EARL EISENHART, EXECUTIVE DIRECTOR, COMMISSION OF ACCREDITED TRUCK DRIVING SCHOOLS; ACCOMPANIED BY HARRY KOWALCHYK, PRESIDENT

Mr. EISENHART. Thank you, Mr. Chairman.

Before I begin, I would like to introduce Mr. Harry Kowalchyk, to my right, who is the President of our organization. He is here with me this morning.

Senator EXON. Welcome, and we are glad to have you here.

Mr. KOWALCHYK. Thank you, sir.

Mr. EISENHART. Mr. Chairman, the Commission of Accredited Truck Driving Schools, or CATDS, very much appreciates this opportunity to present our comments at this hearing on the status of motor carrier safety.

CATDS is a trade association representing the Nation's leading accredited truck driver training schools. Unfortunately, time this morning does not allow us to review all of the things that our organization is doing to help in the truck safety effort.

However, I would like to briefly outline some of the things CATDS is doing to help in the truck safety effort: We are:

One, increasing the focus on safety at all levels of our training programs;

Two, joining with other highway safety organizations to assist States to implement the commercial driver license [CDL] program;

Three, actively participating in the CDL information program coordinated by the American Association of Motor Vehicle Administrators;

Four, developing a model drug education program for our members;

Five, contributing to the work of the National Commission Against Drunk Driving to help end substance abuse;

Six, implementing a CATDS Statement of Training Objectives based on the principles contained in the Department of Transportation's Model Curriculum and the CDL Final Rule;

Seven, implementing an instructor qualification and training program designed to provide a minimum level of competency needed to qualify as a professional tractor-trailer instructor. This program, which we expect to be operational by fall, will include courses on general teaching skills and techniques as well as commercial vehicle regulations, procedures and systems.

Certainly there is no question in our minds that training is a most vital ingredient in motor carrier safety. It is an important factor in upgrading personnel in any field, but especially one which has so direct an impact on public safety.

It is certainly distressing that estimates place the number of commercial drivers with any formal training at all at no more than 15 to 20 percent.

This subcommittee should be commended for focusing attention on the need for truck driver training, and we welcome the movement toward training for all commercial drivers.

We do, however, have concerns regarding some proposals which have been made with respect to training. Some of the proposals favor the DOT model curriculum for training tractor-trailer drivers as the basis for mandatory training standards.

While we believe that the model curriculum is excellent as a shelf reference and, in fact, is used now as the basis for many tractor-trailer programs in the country, the model curriculum is not well suited to be the basis for a Federal standard; nor do we believe that research to date has supported the need for such a standard.

We do believe that assessment of skills and knowledge should be based on performance standards, rather than standardized curricula.

Individuals develop similar skills and knowledge in different ways and at varying rates of speed. Conditions in the trucking industry vary with geographical location, with goods transported, equipment, and company procedures, to name just a few.

We believe that instructional flexibility should be encouraged wherever possible in order to meet these variables.

CATDS vigorously supports the full and effective implementation of the commercial driver license, or CDL, program. We strongly believe that, when operational in all States, the CDL test will assure that only qualified drivers enter the industry.

Mr. Chairman, it will also assure that training programs are producing those drivers. Let me say that we absolutely believe that the test is going to strongly demonstrate that our accredited schools are producing graduates that meet the requirements that have been demanded by the industry, by the public, and by Congress. We think the test is going to very clearly underscore that our schools are producing those graduates.

CATDS suggests that the CDL program be given an opportunity to demonstrate its effectiveness before we put into place a whole, new regulatory program. To legislate such a program before the CDL has been implemented in more than a few States we believe would not serve the public interest or represent the best use of limited resources.

If, for whatever reason, it should turn out that the objectives of the commercial driver's license are not achieved, CATDS certainly stands ready to assist Congress and the Department of Transportation in any way we can to assure that only qualified drivers enter the industry.

While entry-level training is certainly important to safety, it is not the only element in safety, or even the key factor in accidents. Particular attention should be focused on lack of in-service training and other trucking management practices which may have a significant impact on accident reduction.

What happens to the school graduate once he is hired will determine whether he will continue to possess the good attitude, behavior, and performance he has learned in entry-level training, or whether he will fall into the bad habits which, unfortunately, ar all too common in the industry.

In closing, we want to emphasize that accredited schools stand for the highest standards in training. We wish to assure the Subcommittee of our continued interest in producing the best entry-level drivers possible.

Thank you, Mr. Chairman.

We would be pleased to answer any questions you may have.

[The following information was subsequently received for the record:]

COMMISSION OF ACCREDITED
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Commission of Accredited Truck Driving Schools

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Executive Director

May 25, 1989

Hon. J. James Exon
Chairman, Committee on Commerce
SD-508 Dirksen Senate Office Bldg.
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for the opportunity you gave the Commission of Accredited Truck Driving Schools (CATDS) to present testimony at the April 19 hearings on motor carrier safety.

At the end of our testimony, you asked a question regarding the extent to which our schools currently utilize the Department of Transportation's Model Curriculum for Training Tractor Trailer Drivers in structuring their own curricula. There wasn't time to fully answer that question, and we would like to take that opportunity now. We request that this letter be included in the hearing record.

The Model Curriculum consists of a comprehensive eight week training program complete with manual and lesson plans. Its stated purpose is to serve as a recommended practice for training programs. It was developed as a guide and shelf-reference and is used in that manner extensively by all of our schools. The Model Curriculum was never intended to be rigid or mandatory, but to provide a resource for use by directors of training programs. We are aware of no training program that uses the Model in every particular.

There are very good reasons, from the standpoint of accepted educational practice and good public policy, that the Model was not designed as a mandatory training standard. Most vocational training experts agree that assessment of skills and knowledge should be based on competency standards while instructional flexibility should be protected in order to provide for differences in individual learning ability as well as industry variables. No fixed number of hours of training can ever reflect competency.

We believe that the competency of the drivers graduated from our schools is demonstrated by the tremendous demand for these graduates as evidenced by very high placement rates.

However, the vast majority of commercial drivers have never had formal training. Fortunately, the new commercial drivers licensing (CDL) testing program, when fully implemented, should assure that all drivers have the necessary skills and knowledge to enter the industry. We strongly support it for this reason. We believe the CDL provides the appropriate competency standard by which to measure the qualifications of entry level drivers.

Sincerely,

Earl B. Eisenhart

Earl B. Eisenhart
Executive Director

Senator EXON. Thank you very much, Mr. Eisenhart.

I have a question of both of you.

First, I want to congratulate you and your organizations for what I perceive is a very good job being done in training. In training, education is a key to improving the whole safety proposition. I think the statistics down the road apiece are going to show that.

We have had some complaints from time to time about the tests, the written tests, that are given to the drivers—some say that they are overly complicated, beyond what is necessary, and—too much along the lines of a college entrance examination.

I have no idea whether that is true or false. I assume that you must have had some complaints in those areas, or at least heard about it. I suppose that part of the training program of drivers, is it not, is based upon preparing them for their test?

Mr. EISENHART. Senator, yes it is. As you know, there is only one State at this point which has implemented the CDL program, and that is California.

I would suggest that some of the complaints are probably based on the problems that some people have had in passing the test.

Frankly, we are pleased that the test appears to be a very, very tough one in California. We think that is a very good sign.

In fact, the initial information from California is that close to half of the applicants are not passing the test on the first try. We think that is a good sign. We think that that means and shows that the test is doing exactly what it was intended to do, which was to prevent people who should not be on the road from getting behind the wheel of a truck.

Senator EXON. I am not sure that that necessarily follows.

I am trying to get an example here. If you were going to give a lawyer a test that you would give to the graduate of a medical school, you would probably anticipate that the lawyer would fail.

So, just because people are failing, I am not sure that that, in and of itself, indicates that it is a good test. Can you allay my fears on that somewhat?

Mr. EISENHART. I agree with you. It does not necessarily mean that it is a good test. But I think it is one indication in the right direction.

All I can tell you is that what we have seen from the initial results in California leads us to believe that it is a good test.

Senator EXON. Can you tell me what parts of the test are causing what I would think would be a fairly high failure rate?

Mr. EISENHART. Senator, it appears to be two things. One is the pre-trip inspection. The other is the written test. Those appear to be the two. The written test may be a factor of failure on the part of the drivers who have taken the test to adequately appreciate the complexity of it before they take the test.

Senator EXON. Or could it be, say, for lack of adequate preparation?

Mr. EISENHART. Oh, absolutely, Senator.

I think, as we pointed out, only 15 to 20 percent of drivers have any formal training, which is kind of a frightening statistic. The fact that the high failure rate is as it is in California may be a reflection of that.

Senator EXON. I guess my key question—and I would like to have you answer the question, Mr. Estes—is are they questions that would be appropriate to driver safety, or are they questions about calculus that I am not sure play a key role in how safe a driver one would be?

All I am asking is are they fair and reasonable. What do you say, Mr. Estes?

Mr. ESTES. I'd like to respond fully to you by letter at a later date, with a little more knowledge.

I think the test is new. I think there are a lot of people who have not had experience taking the test. Even in my own case, when I take my driver's exam every 4 years, I have to go back and review. I think that is what is happening to many of these drivers. They have not had to take a test like this for some period of time. So they are a little stale and they are having to refresh their memory.

There may be other aspects to it, and I would like to report on those directly to you.

[The following information was subsequently received for the record:]

Ryder System, Inc.
1275 K Street, N.W.
10th Floor
Washington, D.C. 20005

May 18, 1989

RYDER SYSTEM

The Honorable J. James Exon
U.S. Senate
Washington, D.C. 20510

Dear Senator Exon:

I testified last month at your subcommittee's safety oversight hearings. You asked me a question about whether I thought the new commercial drivers license test was testing the appropriate knowledge and skills especially given the high driver's failure rate in California.

In order to respond to your question, I have spoken with a number of people who are more knowledgeable than I am on this subject including the Department of Transportation, the American Association of Motor Vehicle Administrators and my own safety department. All of the people I have spoken with concur that the test is a fair test of a driver's knowledge about safety, rules, regulations and driving requirements surrounding his profession.

Most attribute the high failure rate in California to the drivers simply not studying the manual -- the knowledge portion of the test does require the driver to study the manual in order to pass. I believe part of the problem lies with the experienced driver who simply feels like he can "ace" the test without studying because of his experience. This is simply not the case. A good example of this and other aspects of the test are illustrated in a soon to be released video called "Passing Gear" produced by the Essex Corporation. I would be happy to provide you with a copy of it as soon as it is available.

I can also assure you that the Department of Transportation and its contractor took every imaginable step to ensure that the test is not only fair but is designed to test the appropriate knowledge and skills required of a professional driver. This involved countless hours of research, discussions and testing.

Finally, I wanted to comment that statistics indicate the pass/fail rate is improving in California as word gets out that drivers must study the manual before taking the exam. It appears that the current testing standards will have a dramatic effect on improving the quality of the professional driver, the industry and safety.

Senator Exon, thank you again for the opportunity to testify before the subcommittee. If I can provide any further information please do not hesitate to give me a call. For your information, I have enclosed California's CDL test materials.

Sincerely,

Donald W. Estes

Donald W. Estes

Enclosures 1/

1/ The enclusures were not reproducible.

Senator EXON. I'd appreciate that very much.

I have just two other questions.

First, I would ask this of you, Mr. Estes. What are your views on the need for formal training for entry-level commercial motor vehicle drivers?

Mr. ESTES. I think in today's environment it is critical. We have very sophisticated equipment. We have stress on the road that was not involved before. When you try to drive down the road today, there are a lot of factors that you are faced with that we were not facing 20 years ago.

The general problems that are encountered with knowledge of the equipment, knowing how it operates, requires training before you can get behind a wheel. Most business firms know that the cost of a poor driver in their vehicle is very dramatic. The competitive economic environment is going to cause many companies to make sure that they have properly trained drivers.

We think there has to be a school curriculum accreditation that will supply this type of individual for the industry.

Senator EXON. Thank you.

Mr. Eisenhart, let me ask you this question, if I might.

In your testimony, you indicate that one of the areas in which the Commission on Accredited Truck Driving Schools is working to help in the truck safety effort is implementing a CATDS statement based on the principles contained in the Department of Transportation Model Curriculum.

Please indicate to what degree your member schools base their training on DOT's Model Training Curriculum.

Mr. EISENHART. All of our schools base their training, to some extent, on the Model Curriculum.

What I would like to do is refer that question to Mr. Kowalchyk, who has more intimate knowledge of the details of that from his own experience with his training program.

Senator EXON. Mr. Kowalchyk, just for the aid of our recording secretary, would you spell your last name, so that we can get it correctly.

Mr. KOWALCHYK. Certainly. It is K-O-W-A-L-C-H-Y-K.

Senator EXON. Thank you.

Mr. KOWALCHYK. With reference to your question, Senator, we use the Model Curriculum as a basis in determining our own curricula. But there are other variables that have to be considered—geographical location, the goods that are hauled, the demands from the various different companies that we place our graduates with.

Senator EXON. I think I have no further questions.

There may be some additional questions for the record.

We thank you very much, Mr. Eisenhart, Mr. Estes, and your associates who have accompanied you today.

With that, we thank all of our witnesses, and we are adjourned.

[Whereupon, at 12:05 p.m., the subcommittee adjourned, to reconvene upon the call of the Chair.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF THE MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE UNITED STATES, INC.

Getting properly trained drivers behind the wheels of large trucks is a major trucking industry priority. Several years ago the industry realized that if new drivers received any training at all, it was most often haphazard, and rarely did it properly prepare them for the task of driving a semi-trailer truck on public highways.

To solve this problem, the industry created the Professional Truck Driver Institute of America, an independent, non-profit organization whose purpose is to improve the quality of the training aspiring truck drivers receive. The coalition that formed the Institute represented all facets of the industry, including motor carriers, manufacturers and component suppliers, labor, independents, driver training schools and insurance and financial institutions.

One of the first issues the coalition considered was whether or not the best way to solve the training problem was to have the Federal government mandate standards for truck driver training programs. After considerable thought and review, the coalition rejected this course of action because: it believed that mandatory standards would be less rigorous than those the industry would create on a voluntary basis; the government would be under considerable pressure to grant exemptions, waivers and "grandfather" existing entities; and, the standards would not reflect the training requirements that motor carriers desire as closely as would those created by the Institute. Instead, the founders of the Institute felt that market pressure would force substandard training operations to improve or leave the business, as it certified more and more schools.

The Institute, however, did use the recommended guidelines for training tractor-trailer drivers that the Bureau of Motor Carrier Safety released for use by industry in 1984 in creating the criteria it uses today to evaluate driver training programs. The Institute's criteria are rigorous, particularly the requirement of 44 hours of behind-the-wheel training, which is considerably above the average hours driver training school normally provide, and they reflect closely what truck operators want in a properly trained entry-level driver.

The criteria were met by 17 separate training sites of eight driver training organizations who were first certified by the Institute in January, 1989. The Institute is evaluating another six schools at this time, having just granted certification to a ninth organization. Another fourteen schools will be evaluated in the near future. The Institute's certification board meets every quarter to review applications from organizations wishing to receive certification. What is described here is a system that ensures that new truck drivers receive essential basic training that will prepare them for a career in the industry.

This system was created entirely by the private sector, at no cost to the taxpayer. The Institute represents a direct investment of $1 million by the industry and countless hours and dollars of volunteer time and donated services. If Federal standards were proposed, this private sector initiative and investment would be wasted, as it is unlikely that any truck driver training organization would have any incentive to be certified by the Institute.

Federal standards might make sense only if the industry had not taken the initiative to establish the Institute to provide a uniform system of evaluating the training offered entry-level drivers. But the private sector has done so. Congress should, therefore, give the marketplace a chance to solve the issue of truck driver training. The industry has taken the initiative to tackle the problem through the Professional Truck Driver Institute of America. MVMA asks that you give this process an opportunity to work. It has a viable product to offer.

Statement of the

National Transportation Safety Board

The National Transportation Safety Board has had a longstanding concern with regard to heavy truck safety, based largely on the many heavy truck accident investigations we have conducted over the years. Our concern deepened starting in the early 1980s as traffic congestion nationwide increased, along with truck accidents.

In 1985, the Safety Board initiated a series of safety studies on heavy truck safety. The first was published in early 1986, covering the training, licensing, and qualification standards for truck drivers. The Board found that, although there are programs for training and licensing drivers, including state and federal regulations and employer screening procedures, unqualified drivers still can slip through into the truck transportation system. Commercial motor vehicle driving requires specialized skill, but many drivers enter the field without first acquiring the needed skill.

In the 1986 study, the Safety Board endorsed:

--Establishment of a commercial driver's license, with national standards for training, testing, and licensing

--Formalized evaluation of driver training schools

--Insurance incentives to promote formal training

--Establishment of a comprehensive information system on driver records, to eliminate multiple licenses and unsafe drivers

Many of the Safety Board's recommendations were incorporated into the Commercial Motor Vehicle Safety Act of 1986, which we supported.

On July 1, 1987, the first step of the reforms called for by Congress was implemented by the Federal Highway Administration, (FHWA) when it became illegal for commercial motor vehicle drivers to have more than one license. Since then, thousands of licenses have been turned in by drivers holding more than one. Nevertheless, most observers familiar with the trucking industry believe many thousands more remain in illegal use.

The FHWA last summer issued final rules on driver licensing, and testing standards were issued. Work has begun on the Commercial Driver's License system, which eventually will permit complete exchange of license information among the states. On January 2, 1989, California issued the first CDL to a commercial driver, but there remains a great deal to be done for the system to begin functioning nationwide.

The next phase of the CDL implementation process is enactment of implementing legislation by the states. Model legislation was prepared by the American Association of Motor Vehicle Administrators and circulated to the states. Three states (Tennessee, California, and Michigan) enacted implementing statutes in 1988, and 45 others will consider bills during their 1989 legislative sessions. There is a consensus that the states must enact these laws in 1989 in order to allow licensing agencies enough time to license drivers before the 1992 deadline.

State licensing officials continue to support the CDL program, but they are beginning to be confronted by some potentially serious problems. States are discovering that there are substantial costs involved, and there is no consensus on how they will be borne. The cost of licenses to operators -- or, more generally, who will bear the cost of the testing program -- is becoming controversial. (In California, for instance, this issue almost killed the CDL implementation legislation.)

There also have been a variety of logistical problems in setting up testing programs. For example, one state has discovered that a substantial portion of its driver population (up to 30 percent) may not have adequate reading skills to understand the knowledge (written) test.

Timing also is a potentially serious problem. Most states issue licenses in a four-year cycle, which means that they will have to change their licensing cycle or make some other accommodation to enable all commercial drivers to be licensed. The increased number and length of tests to be given will require the hiring of additional examiners and opening of new facilities. However, after 1992, this additional capacity will not be needed. Third-party testing may be a solution in some states, but there is concern among state officials about the wisdom of widespread reliance on this mechanism.

Progress is being made on the driver training effort. The Professional Truck Driver Institute of America announced recently that its efforts to provide formal evaluation and certification of driver training courses and schools is making headway, with an expected 15,000 student drivers to be certified each year. However, with more than 300,000 new driver entrants each year, the process will take time.

The other major component of the CDL system is the information system (CDLIS) necessary to allow licensing authorities to inquire whether an applicant holds a license (or is suspended) in another state. CDLIS will be similar in design to the National Driver Register (NDR). It will contain a list of all CDL holders and their state of licensure, but the substantive information will be held by the state itself. Under the 1986 Act, each state is required to use and exchange information from CDLIS (and also the NDR). The 1986 Act required that CDLIS be operational by January 1, 1989, and the system (based on AAMVANET, a communications system developed by the AAMVA) is now technically "in operation." However, only California has begun to issue commercial driver licenses, and therefore is currently the only state putting records into CDLIS. About a dozen states are expected to issue commercial licenses and be using the system by the end of this year. It is too early to know if AAMVANET is technically capable of handling the CDLIS workload.

While the training, licensing, and qualifications study was underway, the Safety Board began another project, in January 1986, involving a program of field investigations of medium and heavy truck accidents. Under this project, the Board has investigated nearly 400 truck crashes. Phase I of the project was concluded in June 1987, after 189 investigations were completed. The criteria for those cases were very broad: any crash involving a truck with a GVWR over 10,000 pounds that received towaway damage was eligible for the study. Summaries of these 189 crash investigations were published in October 1988. Some of the issues found in these cases:

--In at least 62 cases, violations of the hours-of-service rules and/or fatigue was found. It was common to find multiple log books (one for payroll purposes, one for the DOT or police inspectors), or log books days behind.

--In at least 43 cases, the Board found that lack of training or inexperience was an issue.

--In 61 cases, very poor driving records, suspended or revoked licenses, and multiple licenses were discovered. Some employers were aware of the drivers' past records, and allowed them to continue driving; others appeared not to be aware because of the driver's failure to properly report his driving record, or simply due to the employer's failure to complete adequate background checks on driver applicants.

--In fact, in 126 of the 189 cases, the Board found that the practices of the employing motor carrier contributed, either directly or indirectly, to the accident. In some cases, the employer's oversight procedures were inadequate for ensuring the operational safety of the driver or the truck. In others, employers were not complying with federal safety regulations. Some employers hired drivers with disqualifying violation histories, knowingly tolerated falsification of log books, and in other ways demonstrated poor oversight of drivers.

For example, in one case, a heavily-loaded truck struck the rear of a schoolbus that was stopped to load children, killing two students. The truck was operated by an alcohol-impaired driver (BAC of 0.18 percent)), who had not slept for 22 hours before the accident. His license had been suspended for an earlier DWI conviction. The Board found that his employer did not have minimum levels of insurance, had no driver qualification files, regularly permitted his drivers to violate the 10-hour rule, did not require drivers to maintain log books, and did not maintain vehicle inspection and maintenance records.

The second phase of the Board's heavy truck safety project has been designed to focus on "human performance" issues primarily:

--The role of alcohol and drugs

--Employer safety oversight

--Driving training and experience

--Fatigue, and other issues.

This study is still underway, with the case investigations being summarized for publication later this year.

Because of the need for alcohol and drug testing in each case, the Phase II investigations were limited to crashes in which the truck driver was killed. Eight target states were selected for the one-year investigation period (California, Georgia, North Carolina, Tennessee, Wisconsin, Maryland, New Jersey, and Colorado), based on the Board's evaluation of their existing requirements for toxicological testing, their willingness to assist the Board in the study, and because of their geographical and topographical distribution. For purposes of the study, and to facilitate the proper tox testing of samples, the Board defined "fatal" as death occurring within four hours of the crash.

The sample ended up with 182 total cases, involving 185 case vehicles and dead truck drivers. We anticipate that this will constitute about 25 to 30 percent of all U.S. fatal-to-truck-driver crashes between October 1987 and the end of September 1988.

Toxicological testing for the study was performed at the Center for Human Toxicology at the University of Utah. They tested for alcohol and 44 drug groups, including the major controlled substances, caffeine, certain over-the-counter drugs, and certain prescription drugs. In addition, we have test results from the state in some cases, and -- in a few cases -- test results for some of the other (non-truck) drivers involved. The results of the testing are still coming in, and we are analyzing them at this time.

Overall, we found the same type of problems in this sample that we found during the Phase I effort: log book violations, some multiple licenses (less commonly than in Phase I), poor driving records, suspended licenses. In a startling number of cases, the medical condition of the driver contributed directly to the crash.

In addition to the toxicological testing (which included sample screening, confirmation tests, and quantification), the Board also collected extensive information on the immediate past activities of many of the involved truck drivers. We documented his or her work and sleep habits or cycles, and Safety Board specialists reviewed this information for analysis of possible fatigue.

We have found many instances in which the dead truck driver was under the influence of alcohol and/or other drugs, but there was no finding in the police accident report to reflect that fact. Many reports showed only that samples were collected for testing -- they were not updated later to indicate the results of the analysis. Others stated that the driver was not under the influence of alcohol/drugs, even though no state test had been performed.

From the Phase II investigations, we plan to prepare reports in at least three general areas: the role of alcohol and/or drug impairment in contributing to this sample of fatal truck accidents, other human performance issues encountered, and a review of the driver record background check systems currently available.

Using the nearly 400 cases from both Phase I and Phase II, the Board is also working on several special issue reports or recommendations. For example, we recently released a safety study on the need for automatic slack adjusters to reduce the number of out-of-adjustment brake-related crashes. Recommendations have been drafted concerning operation of "double-bottoms," high profile grade crossings used by heavy trucks, and safe utilization of truck engine retarders. We are working on a report regarding what we believe to be serious conspicuity problems with heavy trucks, and on a report concerning the poor crashworthiness of heavy truck cabs. We have found in case after case, that drivers who sustained moderate crash injuries were nonetheless found dead within the collapsed truck cab -- with their deaths attributed to "compressional" or "positional" asphyxiation.

We are also in the planning stages of an in-depth study of the performance of air brakes -- specifically, looking at vehicle stability and stopping problems associated with brake application and release timing, brake maintenance and braking balance in general. That study probably will get underway in May, and will include approximately 30 new investigations. Using brake timing measurement equipment, and with the help of computer simulations, we hope to analyze both single- and double-articulated combination vehicles.

The Board's recent and current work in heavy truck safety deals with many of the issues addressed in the motor carrier safety bill under consideration. We believe there is a strong need for improvement in the safety rating system used by the FHWA to evaluate motor carriers, including the need to widely distribute to the public the names of carriers that are rated "unsatisfactory." Given the Safety Board's findings in the majority of our Phase I truck accident investigations, many of these carriers should -- under any reasonable rating system -- have been rated "unsatisfactory" from a safety standpoint. Indeed, many of them probably presented an "imminent hazard" to safety and their operation should have been suspended by DOT under the authority given in the Motor Carrier Safety Act of 1984.

The Safety Board welcomes this opportunity to comment on motor carrier safety, and we are in agreement with the thrust of draft legislation under consideration by the Committee. Specifically, we concur in the need to address the issues of safety ratings (Section 2), imminent hazard (Section 32), and drug-free truck stops (Section 4).

In addition, the Safety Board supports the inclusion of proposed Section 5 -- brakes, and Section 9 -- visibility.

We are pleased to have this opportunity to present our views, and hope these comments are helpful.

TESTIMONY

OF THE

NATIONAL ASSOCIATION OF TRUCK STOP OPERATORS

The National Association of Truck Stop Operators ("NATSO") welcomes this opportunity to submit testimony supporting the provisions of Section 4 of "The Motor Carrier Safety Act of 1989". NATSO is the national trade association of the truck stop industry, representing some 1000 facilities located on interstate and major highways across the continental United States. NATSO members constitute a majority of the full service truck stops providing most of the over-the-road fuel, food, lodging, repair and other related services for the interstate trucking and bus industries, as well as for the motoring public.

The owners and operators of America's truck stops share the concerns expressed in the findings of Section 4. The use of drugs has become an epidemic in every sector of our society. No use of illegal drugs can be condoned or approved, by law or in fact. In particular, the prospect of an individual under the influence of drugs behind the wheel of an eighteen-wheeler is intolerable.

Although the trucking industry has done much to eradicate drug use by truckers, it is an unfortunate fact that any location where truck drivers congregate is particularly susceptible to those who would sell controlled substances. Therefore, truck stops, terminals and other similar locations must be subject to some regulation above and beyond the norm. NATSO

wholeheartedly supports Senator Danforth's proposal to create "drug-free zones" at and around truck stops, and will work diligently for its passage. In fact, NATSO would support extending the application of this provision to facilities designated as "rest stops" where trucks gather but do not purchase fuel.

Congressional action in this area will strengthen efforts already underway in the truck stop industry to make America's highways safer. Owners and operators of truck stops have a consistent record of constructive and preventative action to combat the drug problem and rid their locations of those who would sell drugs to truck drivers. These efforts include improved lighting of facilities, controlled access to parking areas, uniformed security patrols, the monitoring of citizens band radio frequencies and rewards to truckers who report drug traffic. In addition, truck stop operators often work with local, state and federal law enforcement officials to see that current laws are fully enforced.

But current laws are not enough. Increased penalties for distribution and the intent to distribute controlled substances are a needed step towards eliminating drugs on the nation's highways. Stricter laws and more diligent enforcement will have a significant impact on the use of unwanted and illegal drugs at truck stops and on our roads.

The members of the National Association of Truck Stop Operators pledge to redouble their own efforts against drug trafficking, and will join with others to ensure swift enactment of this important provision.

National Association of Regulatory Utility Commissioners

Incorporated

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Treasurer

May 2, 1989

Honorable J. James Exon
Chairman
Subcommittee on Surface Transportation
Committee on Commerce, Science and
Transportation
428 Hart Senate Office Building
Washington, D.C. 20510

Re: Statement for the Record of the Subcommittee's Hearing on Motor Carrier Safety

Dear Chairman Exon:

On behalf of the National Association of Regulatory Utility Commissioners (NARUC), we respectfully request that this letter be included in the record of the Subcommittee's April 18 and 19 hearings on motor carrier safety.

As you may know, the NARUC is a quasi-governmental, nonprofit organization founded in 1889. Within our membership are the governmental agencies of the fifty States, the District of Columbia, Puerto Rico and the Virgin Islands which are engaged in the regulation of utilities and carriers. Our primary objective is to serve the public interest by seeking to improve the quality and effectiveness of government regulation in America.

We greatly appreciate this opportunity to express our views on the subject of motor carrier safety, an issue of vital importance not only to the economic well-being of our national system of surface transportation, but also to the health and welfare of the American citizens who share our highways with the motor carrier industry. Our goals are to discover feasible solutions to the various safety problems in the motor carrier industry and to work with both the Federal government and industry toward the national implementation of these solutions.

Many of our members are responsible for the implementation of Federal safety laws relating to motor carriers and are participants

in Department of Transportation (DOT) Motor Carrier Safety Assistance Program (MCSAP), a program which the NARUC has supported since its creation in 1982.

The MCSAP, which provides Federal funds of up to 80 percent of a participating State's safety program costs, has enabled the States to initiate or substantially increase their safety enforcement activities. Nearly all the States and U.S. territories now participate in the MCSAP. In addition to increasing the number of safety inspections and safety management audits performed each year, the program has also improved the quality and uniformity of these activities. By requiring the adoption of Federal safety regulations as a prerequisite for funding and monitoring the States' activities, the DOT has been able to utilize the program to achieve a high degree of standardization in safety enforcement across the country.

Last year, State participation in the Motor Carrier Safety Assistance Program resulted in over 1.25 million roadside safety inspections -- eight times the number performed in 1984. These inspections resulted in almost half a million vehicles being placed out of service. Hazardous materials inspections have also increased significantly -- more than doubling in the last two years. The MCSAP has made this possible by funding the training of over 4,000 State inspectors since 1984.

Other important elements of the MCSAP program are the development of a nationwide safety information system and the safety compliance audit program. The "Safetynet" data base program, when fully implemented, will enable the participating States and the DOT to closely monitor motor carriers with high accident rates or a history of serious safety violations. The exchange of safety information will mean that companies which need assistance in the development of safety programs and those who consistently refuse to comply with safety regulations can be identified.

The safety audit program serves to ensure that carriers understand and comply with the basic safety regulations as set out by the DOT. These audits involve, among other things, the analysis of the company's driver qualification records, hours of service logs, and equipment maintenance records. The audit program supplements the roadside inspection programs and encourages companies to fully comply with applicable safety standards. The number of safety audits has increased significantly under the MCSAP program, and some States are now performing these audits to ensure the safety of all companies which apply for intrastate operating authority.

The NARUC also actively has supported many of the provisions in the motor carrier safety laws enacted since 1982, including the establishment of a uniform commercial driver's license, revision of the hours of service rules, and repeal of the commercial zone exemption.

The success of the Federal-State partnership in motor carrier safety is increasingly evident. However, it is critical to the safety of our highways that both the Federal and State commitment to the uniform enforcement of motor carrier regulations be maintained and increased. Three types of driver violations are currently a problem in the industry: speeding, log-book violations and driving under the influence of alcohol or drugs.

Speeding trucks are commonplace on the highways with drivers relying on radar detectors to avoid detection by the authorities. The sole purpose of these radar detectors is to assist individuals in breaking the law. These devices should be outlawed for all drivers. At a minimum, DOT should establish rules prohibiting the use of radar detectors for trucks under the jurisdiction of Federal safety regulations. Strict penalties should be enforced when professional drivers disregard the laws of the road. Perhaps the possession of a commercial driver's license should be conditioned upon continued compliance with these laws.

Secondly, the American Automobile Association has concluded that driver fatigue is responsible for 41% of motor carrier accidents. The only way to detect if hours of service rules are being violated is to monitor drivers' log books. However, log books are often altered, or numerous books are maintained simultaneously in order to evade the regulations. Rules must be formed and strict penalties must be enforced by the responsible State and Federal agencies to eliminate this preventable hazard.

Finally, it is inexcusable under any circumstances for a motor carrier operator to be driving under the influence of drugs or alcohol. Congress must decide upon an immediate measure which will assist the detection and deterrence of this heinous crime. We would strongly recommend that the Congress pass legislation which will require drug testing -- including random testing -- for those involved in the transportation industry [See policy resolution attached].

Another area in which legislators, regulators and the managers of the trucking industry must focus their attention should be on the use of advanced safety technology. One of these important technologies, an advancement which would revolutionize trucking safety, is the on-board computerized monitoring device (commonly known as the "black box") which records speed, driving time and

other vital information. The most significant impact of this equipment would be the ability to determine the operator's hours of service. It is currently prohibitively expensive and time consuming to verify accurately an operator's driving time. The result is widespread abuse. This on-board monitoring device would provide enforcement officers and fleet managers with an accurate display of the motor carrier's hours of operation -- records which could not be altered by the driver. In addition, some studies claim that these devices can reduce fuel consumption by as much as 25% by providing managers with detailed information on the patterns of operation. Congress should require DOT to establish a program for the mandatory, universal implementation of this safety device.

Advanced braking technologies should also be aggressively developed and made mandatory as they become ripe for commercial use. These technologies would allow drivers to respond to emergency situations with greater control over the vehicle. Equipment such as anti-lock brakes prevent lock-ups, lessen the chance of jackknifing and afford a greater amount of braking power to the motor carrier. We strongly recommend that you require the DOT to study and establish rules requiring the use of anti-lock brakes.

While the membership of the NARUC has not had the opportunity to fully review the new motor carrier safety proposals contained in S. 819, it appears overall that the measure is consistent with the safety priorities the NARUC has held for many years. When and if we develop a formal position on S. 819, we will certainly forward that to the Subcommittee.

Sincerely,

Paul Rodgers
General Counsel

Caroline M. Chambers
Director, Congressional Relations

Attachment

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Office of the Executive Vice President

April 25, 1989

The Honorable J. James Exon
Chairman
Subcommittee on Surface Transportation
Committee on Commerce, Science
and Transportation
United States Senate
SH-428 Hart Office Building
Washington, DC 20510

Dear Chairman Exon:

The National Industrial Transportation League, the nation's oldest and largest shippers' transportation trade association, takes this opportunity to present its views for your subcommittee's April 18 and 19 oversight hearings on motor carrier safety issues.

The League is pleased to have supported the motor carrier safety initiatives of the past decade. These laws have improved the safety of our highways and increased the efficiency of our national truck transportation system. The Motor Carrier Assistance Program deserves special recognition. The increase in safety inspections shows how much can be done when the federal and state governments cooperate for a common goal.

With respect to the newest safety proposal, S. 819, Motor Carrier Safety Act of 1989, the League currently is studying the plan. However, it appears at first reading that the measure too will gain the support of the shipper community.

The dissemination of safety rating information to the public is an important part of making the private sector a more active partner in the safety effort. Given the competitiveness of today's markets, shippers cannot afford to have loads damaged in transit because of unsafe practices or delayed and possibly destroyed due to accidents. Being able to identify carriers whose concern for safety is made questionable by their Department of Transportation ratings will help the shipper industry to choose business partners that share in its dedication to quality performance.

As for barring carriers with unsatisfactory ratings from transporting hazardous materials, the reform merely is a long overdue exercise of common sense. Hazardous materials are essential to the smooth functioning of our economy. However, given their potential for harm, it is essential that safety requirements be even stricter than those imposed for general commodities carriers.

The League at this time takes no position on those provisions in the bill which would: designate truck stops as drug-free zones and increase the penalties for those who distribute or intend to distribute those illegal substances at those locations; assess the need to improve brake performance standards; and, change the grade level of federal motor carrier safety specialists.

Efforts to ensure the timely correction of safety violations, to take enforcement actions against serious safety violations, and to ensure improved visibility of trucks all seem laudable goals. The use of DOT rulemakings to formulate the details of these requirements should give all interested parties a fair opportunity to address their particular concerns.

In addition to its legislative efforts, the League is working to promote safety through its cooperative efforts with the American Trucking Associations. To foster a greater awareness about a wide variety of safe operating practices, the League and the ATA have developed a brochure and videotape and made it available to the shipper and carrier public. Our current project is development of a training manual for the videotape. A copy of the brochure is enclosed for your information.

Given the changes of the past decade, one of the biggest obstacles to improved safety is knowledge. No longer do most individuals serve long apprenticeships which familarize them with the industry. Many of today's violations result from an ignorance of the law, rather than a blatant disregard of it. Through education, the League and the ATA are trying to fill this void in an effort to further improve highway safety.

The League looks forward to working with the subcommittee on promoting safety within the trucking industry as well as within all other segments of our national transportation network. We thank you for this opportunity to present the views of the shipper community.

Sincerely,

James E. Bartley

James E. Bartley
Executive Vice President

cc: Subcommittee Members

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May 16, 1989

The Honorable J. James Exon
Chairman
Surface Transportation Subcommittee
Committee on Commerce, Science and
Transportation
United States Senate
428 Hart Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman,

It is my understanding that the Subcommittee held a hearing on Truck Safety on April 19, 1989. The United Shipowners of America (USA) would welcome the opportunity to submit this letter for the Record as part of that hearing. USA is a trade association representing over 97% of the U.S.-flag liner fleet in the foreign trade. Our members are American President Lines, Ltd., Crowley Maritime Corporation, Farrell Lines, Inc., Lykes Bros. Steamship Co., Inc., and Sea-Land Service, Inc.

USA members are primarily engaged in the transportation of containers in international trade. As you know, these containers are commonly loaded at an inland point, transported over land by rail or highway, loaded aboard ship at a U.S. or foreign port, and transported to a destination port where they again travel by rail or highway to their final destination. The very nature of our business is based on moving cargo from point to point as quickly and efficiently as possible. For the most part, these containers are transported from their original loading point to their final destination without being opened. To ensure that the shipowner is not held liable by the shipper for stolen or damaged merchandise, up to three or four seals are placed on the container immediately after it is loaded by the shipper. If those seals have to be broken for some reason, the steamship operator must hire a neutral party to observe this process. This can be time consuming and costly. Since time is such a factor in our business, the steamship operator relies on an accurate manifest stating the contents of the container, rather than opening the container to ascertain the contents.

The American Trucking Association (ATA) presented testimony at your hearing about the extent of the overweight container problem and cited a report undertaken by the Federal Highway Administration dated March 20, 1989. We would agree with Mr. Donohue that the truckers have an unreasonable burden to bear in dealing with overweight containers, but would like to submit some additional facts from the FWHA report that were not in the ATA testimony.

While the report is only one indication of the potential problem, it points out a number of interesting findings and inferences that can be made from those findings. The first is that export containers are much more likely than import containers to be overweight. In fact, in a 12-day sample, 38% of 40-foot export loads were overweight, compared with 17% of import loads. This runs counter to the commonly held assumption that only foreign shippers are ignorant of U.S. weight limit laws or are purposely overstuffing containers. Secondly, of the containers that are overweight, import containers are more likely to be close to the legal limit than export containers are. Finally, overweight containers are not entering or leaving the country via any particular port. Since tens of thousands of U.S. shippers feed their containers to a handful of steamship companies and ports, the responsibility for overweight containers must be with the shipper (the person that loads the container). We concur with the American Trucking Association when they say that "culpability must be directed at the party responsible for the overloading -- the shipper."

USA believes that the shipper should bear the responsibility for ensuring that containers are loaded within the legal weight limit on American roads. USA also believes that responsible federal agencies should conduct further research to determine the magnitude and characteristics of the overweight container problem, so we can begin to look for a solution. For example, no study has been done to our knowledge of the frequency of overweight trucks moving strictly in domestic commerce on U.S. highways.

USA appreciates the opportunity to comment for the Record on this issue and looks forward to working with federal agencies,

the Congress, and private groups to achieve an equitable solution to this problem.

Sincerely,

William P. Verdon

William P. Verdon
President

Testimony of Sam F. Vale
Chairman, Rio Grande Valley Trucking Coalition
Rio Grande Valley Chamber of Commerce

The Rio Grande Valley Trucking Coalition is an informal association of various trucking interests, manufacturing concerns and growers and shippers in the Rio Grande Valley area in South Texas. Its members are involved with trade, distribution, and sales between the twin plant cities along the U.S.-Mexican border. Examples of these cities are Brownsville, Texas and Matamoros, Mexico; McAllen, Texas and Reynosa, Mexico; Laredo, Texas and Nuevo Laredo, Mexico; El Paso, Texas and Ciudad-Juarez, Mexico.

I have appeared before the Subcommittee in the past, along with other representatives of the Coalition, trying to insure that safe and ready motor carrier transportation is available between Mexican border areas and U.S. border areas. More specifically, the Coalition was involved in the development and implementation of the foreign motor carrier certificate program mandated by the Motor Carrier Safety Act of 1984, and the provisions for trip insurance for foreign motor carriers included in the 1988 amendments to that Act. See 49 U.S.C. § 2505 App.; Section 206 of Motor Carrier Safety Act of 1984. The Coalition has worked closely with staff and members of this Subcommittee as

well as Department of Transportation and Federal Highway Administration officials.

The purpose of this testimony is to report on the Coalition's progress in studying the issue of how safety can be maintained without an interruption in the economy along the U.S.-Mexican border. Last fall, the Congress enacted legislation requiring that operators within commercial zones comply with all of the Federal Motor Carrier Safety Regulations ("FMCSRs"). Because of the Coalition's concern that many Mexican motor carriers could not readily comply with all of these regulations, largely because Mexican manufactured trucks do not meet U.S. specifications, the Coalition sought a temporary delay of the imposition of the FMCSRs on commercial zones along the U.S.-Mexican border. The Subcommittee was instrumental in implementing that one year delay and mandating that the Department of Transportation conduct a study as to whether Mexican manufactured trucks could comply with the safety standards set forth in 49 C.F.R. Part 393. See Section 9102(b) of Omnibus Drug Act of 1988.

We understand that that study is now underway and that as a part of the study, the Federal Highway Administration ("FHWA") is seeking comments from all interested parties on this issue. 54 Fed. Reg. 12200 (1989). The Coalition will, of

course, file its comments with the FHWA. In addition, the Coalition is conducting its own study which it will submit to this Subcommittee and its House counterpart later in the year. That study will focus on maintaining safety without interference with the economic vitality of the Valley.

The Coalition's preliminary view is that it is unlikely that the two major manufacturers of Mexican tractors and trucks, DINA and KEN-MEX, will be able to change their manufacturing procedures by the October deadline so that new trucks will be in compliance with Part 393. Further, there is the continuing concern that there are thousands of existing Mexican manufactured trucks on the road which must be retrofitted to meet the Part 393 standards. The Coalition's study will detail the Mexican truck specifications, compare them to the Part 393 standards, and attempt to estimate the cost of retrofit for existing trucks. In addition, Coalition members are in communication with the Mexican truck manufacturers and are attempting to learn how long it will take to modify their manufacturing processes so that new trucks are in compliance with U.S. standards.

Many of the U.S. companies which have operations in twin plant cities are shifting to U.S. manufactured trucks. While this is certainly a viable alternative for large manufacturers, with substantial funds, the smaller businesses, particularly in

the produce area, simply cannot afford to lease or purchase U.S. equipment. For example, in excess of 250,000 tons of feed grains (sorgum & corn) grown in Texas are exported to Mexico in Mexican trucks. U.S. trucks are not feasible for these smaller agricultural movements. These shipments must be made in Mexican trucks to access the interior of Mexico from elevators located along the border. As a result, there will be a pronounced adverse effect on these agricultural concerns, if Mexican trucks are prohibited in U.S. commercial zones.

The Coalition provides this testimony with the hope that the Subcommittee will be sensitive to the importance of motor carrier transportation in the Rio Grande Valley. The Valley is one of the most impoverished areas of this great country. The trade with Mexico is critical to the economic well-being of this area. Safe, but readily available motor carrier transportation, is essential to maintain this economy.

Thank you for the opportunity to present our testimony. I will supplement the record later in the year with our study.

Respectfully submitted,

Sam F. Vale

Sam F. Vale, Chairman
Rio Grande Valley
Trucking Coalition

STATEMENT OF LESTER P. LAMM, PRESIDENT, HIGHWAY USERS FEDERATION

Mr. Chairman and Members of the Committee, I appreciate this opportunity to submit comments on Motor Carrier Safety activities and on S.819, the Motor Carrier Safety Act of 1989, on behalf of the highway users community. The Highway Users Federation (HUF) is a national coalition of businesses, industries and associations working to improve the safety and efficiency of America's Highway Transportation System. Our membership consists of more than 400 companies and associations representing 27 industrial and commercial categories, 63 state and local conferences, and 2,000 individual members. Our members in turn represent 30 million commercial and private users of the Nation's Highway System.

This subcommittee and its individual members are commended for the leadership shown throughout the 1980's in the area of motor carrier safety. The Motor Carrier Safety Act of 1984, The Commercial Motor Vehicle Safety Act of 1986, and the Truck and Bus Safety and Regulatory Reform Act of 1988 all have made significant contributions to the improvement of commercial motor vehicle safety and the enhancement of safety for all highway users.

The Motor Carrier Safety Assistance Program (MCSAP) is perhaps one of the most effective Federal/State cooperative programs operating today. On-road inspections have grown from 150,000 in 1984 to over 1,200,000 in 1988. This is

truly an impressive accomplishment, and is directly sending a safety enforcement message to drivers and carriers. Federal Highway Administration, Office of Motor Carrier staff, and State Motor Carrier enforcement staffs are commended for the cooperative efforts demonstrated in implementing MCSAP. Similarly, the membership of the Commercial Vehicle Safety Alliance (CVSA) should be commended.

However, even though the program has met its prime objective -- increasing road-side inspections and identifying unsafe vehicles and drivers -- there are improvements that need to be made. Among the most important are consistency of penalties from state-to-state for similar violations, and recognition by one state of another state's recent inspection. Congressional leadership on both these issues would be beneficial for federal and state officials and for carriers and drivers.

The Commercial Motor Vehicle Safety Act of 1986, which this Committee and particularly Senator Danforth were particularly instrumental in enacting, may turn out to be not only one of the most effective pieces of legislation in commercial motor vehicle safety, but in the whole field of motor vehicle driver safety.

We at the Federation were vigorous supporters of the Commercial Motor Vehicle Safety Act of 1986 along with many of our members, such as the American Trucking Associations, American Automobile Association, and Motor Vehicle Manufacturers Association, to name a few. Our Regional Directors have worked closely with our affiliated State Highway Users Conference members to obtain enactment of state enabling legislation. Progress at the state level so far this legislative period has been good, and we see uniform support for national implementation of the Commercial Driver License (CDL), its related testing requirements, penalties, and disqualifications. These aspects of the 1986 Act will clearly improve the quality and performance of current and future commercial vehicle drivers.

However, in addition to those aspects directly related to upgrading commercial motor vehicle operators, we believe that the telecommunication links required amongst and between the states in order to interface with the Commercial Driver License Information System (CDLIS) will improve the driver management control system for all drivers. The telecommunications system will permit the exchange of violation data for all drivers enabling the state of licensure to have a complete record on each driver. Today, most states do not exchange non-serious violation

information via mail because of time and expense. The telecommunications system will facilitate this exchange, as well as the exchange of data on vehicle registrations and transfers, and other motor vehicle related management data.

One area of concern for truck safety that has yet to be addressed deals with overweight container movements. Overweight trucks are a major concern to highway engineers at federal, state and local level. This concern relates to both impact on roadway condition and unsafe handling characteristics of the vehicle. Studies have shown increasing overloading of international containers, adding unfairly to international competition, and at the same time penalizing the American trucker who gets fined for unknowingly hauling the overweight container. This happens because there is no requirement that individual containers have their weight specified nor are they weighed before departing port facilities. This aspect of truck safety and international competitiveness needs to be addressed.

Our comments regarding the provisions of S.819, The Motor Carrier Safety Act of 1989 are as follows:

Section 2. Motor Carrier Safety Ratings - We support strengthening of sanctions for carriers with an objective safety rating of unsatisfactory. However, we believe the existing safety review process should be thoroughly reviewed to assure that unsatisfactory ratings are only given for

to assure that unsatisfactory ratings are only given for significant safety violations, and that carriers are given adequate appeal and remedial time prior to publication of an unsatisfactory rating. We agree that a carrier who receives such a rating after due process should be prohibited from transporting hazardous materials.

Section 3. Imminent Hazards to Safety - We support the requirement that DOT/OMC develop guidelines for using existing statutory authority to suspend the operation of a motor carrier who poses an "Imminent Hazard" to safety. We recognize that operational guidelines need to be developed by DOT/OMC to objectively make such a determination, but that criteria can be developed with industry's help.

Section 4. Drug Violations at Truck Stops - We fully support this provision to increase the penalties imposed on individuals distributing illegal drugs at truck stops. Language should be added to clearly include rest areas in the definition of a truck stop.

Section 5. Improved Brake Systems - While we share the committee's goal to see improvements in truck and trailer braking systems as soon as possible, we are opposed to legislated start and completion dates for technological rulemaking. The industry and government are currently pursuing objective research and evaluation of anti-lock

brake applications, and we believe these efforts should be completed and assessed in a scientific manner. We do believe the Congress should maintain oversight.

Section 6. Safety Inspector Grades - We support increasing the pay grades of motor carrier safety inspectors to comparable levels with safety inspectors in other transportation fields.

Section 7. Procedures to Ensure Timely Correction of Safety Violations - We agree that procedures need to be tightened up to assure that vehicles and drivers placed out of service, after MCSAP inspection, do not return to the road prior to corrective action. However, we believe these processes and procedures can be developed administratively by federal and state personnel, and that random reinspection need not be mandated by legislation.

Section 8. Serious Safety Violations - We believe safety inspectors should be authorized in impose sanctions and penalties when they discover a serious safety violation. However, we are opposed to mandating that they impose such sanctions and penalties for each such violation, unless of course an appeal and corrective process is included, prior to a determination of findings.

Section 9. Truck Visibility - Our comments on this section are similar to those related to Section 5, Improved Brake Systems. Technological rulemaking dates should not be established in legislation. We believe such efforts should be pursued in a methodical technical process of test and evaluation.

On a final note, we recognize that the Committee is considering adding a requirement concerning the establishment of federal standards for truck driving school curriculum. We have been deeply involved with the Professional Truck Driving Institute of America (PTDIA) since its inception, by providing technical assistance in the curriculum evaluation and assessment area. We believe PTDIA as an industry voluntary certification arm is the appropriate way to go, to assure quality training. Federal evaluation and oversight of training activities is a cumbersome way to go and should not be considered at this time. PTDIA, as a private sector initiative with broad industry backing, is having success and this approach should be given time to mature before an assessments of other approaches are considered.

I thank the Committee members for this opportunity to submit comments of this important issue on behalf of the Highway Users Federation.

BEFORE THE
SENATE COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

STATEMENT ON BEHALF OF THE
TRANSPORTATION LAWYERS ASSOCIATION
BY ITS LEGISLATIVE COMMITTEE CHAIRMAN,
WILLIAM P. JACKSON, JR.

COMMENTS IN REGARD TO THE PROPOSED
MOTOR CARRIER SAFETY ACT OF 1989
(S. 819)

The Transportation Lawyers Association ("TLA") would like to thank the Chairman and Members of the Committee for this opportunity to comment on the Motor Carrier Safety Act of 1984, an important piece of legislation.

TLA is a specialized bar association with approximately 600 members throughout the United States, whose practices involve the representation of various transportation entities, particularly motor carriers subject to safety regulation by the United States Department of Transportation ("DOT"). This Association has commented on previous occasions over the years on a variety of issues dealing with motor carrier transportation and the implementation of motor carrier safety legislation enacted by the Congress.

As an association of attorneys representing many motor carriers, TLA is concerned with and supports the implementation of legislation and regulations which promote the safe operation

of commercial vehicles on the highway. Although safety has always been an important issue, it is acknowledged that one of the effects of recently lessened economic regulation has been an increased concern that highway safety has suffered.

TLA wishes to express its support for your past and present efforts to increase highway safety and the effectiveness of Federal safety programs. TLA's support extends to the majority of the provisions contained in the bill now before the Committee. TLA urges adoption of those portions of the bill dealing with drug violations and punishment, truck visibility, braking systems and performance, and training for operators of commercial motor vehicles. As will be seen from our testimony, TLA strongly supports Section 6 regarding safety inspector grade levels. TLA urges the adoption of this and any other efforts that seek to improve inspector professionalism and retention. It is obvious that the success of any Federal safety program depends upon the skill and intelligence of its field staff.

TLA has reviewed the remaining sections of the proposed legislation in light of the conclusions reached in the report recently prepared for the Committee by the Congressional Research Service,[1] hereinafter the "Report," as well as the experience of its membership.

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[1] Congressional Research Service, Motor Carrier Safety and the Federal Highway Administrations Education and Enforcement Efforts: Options Intended to Improve an Overloaded Program, S. 30 (Comm. Print, April, 1989).

As the title of the Report indicates, the Federal Highway Administration ("FHWA") has been given a task which outstrips its resources. As the Report states:

> FHWA estimates that there are roughly 180,000 carriers of property and persons and 25,000 shippers of hazardous materials under its jurisdiction. To date, approximately one-third of these carriers have received a safety rating. FHWA had hoped to rate all of these carriers by 1990, but with its current manpower and policies, this goal appears unlikely to be achieved before 2002 at the earliest.
>
> Given its current resources and policies, it will literally be at least 10 years before FHWA can audit, i.e., conduct a compliance review (CR), on all of the motor carriers that FHWA has determined are in need of a follow-up investigation. These carriers include all carriers that have received an unsatisfactory or a conditional safety rating. Given the current resources and program strategies, it is highly doubtful that FHWA could visit each of the unsatisfactory-rated carriers that it has already identified as needing attention once every year and one-half. (pg. 71)

In fact, given the rate of turnover among carriers in a deregulated industry, it may be unrealistic to expect FHWA to even reach its goal of rating all carriers. FHWA has also been forced to attack the problem of highway safety with a young and inexperienced work force.

> Out of the 194 employees [assigned to conduct audits,] about 160 are primarily junior-level, relatively new employees who, in many cases, are just beginning to pursue enforcement cases involving violations of safety regulations on their own. Some of these new employees need frequent supervision in the handling of enforcement actions involving safety violations. FHWA is making a definitive effort to have junior-level employees begin to conduct compliance reviews. (Report at pg. 29)

FHWA quite candidly disclosed to the Congressional Research

Service that, "[i]t takes a long time to train and develop a junior-level safety specialist into an experienced senior specialist." (Report at pg. 28)

In addition to personnel limitations, the Report voices doubts about the safety rating system itself. There are questions as to the validity of information obtained during a safety review audit (Report at pg. 56). The questions of reliability translate in the Report to admonitions "to go slow" in utilizing safety ratings to automatically disqualify carriers from transporting certain classes of traffic (Report at pgs. 104 and 106). The Report (pg. 104) also urges that refinements need to be made to the safety-rating system before such steps are taken. While not adopted as part of this legislative package, the Report (pg. 55) suggests that the methodology of the safety rating process could be made public without compromising the integrity of the enforcement system. TLA strongly urges that the FHWA make its safety rating methodology public. Quite frankly, a rating system cloaked in secrecy fosters only mistrust. Confidence in the system, which does not now exist, should increase compliance. Additionally, in 1982 the official in charge of the rating program stated that any adverse effects of disclosure would be counteracted by enforcement criteria that demanded increasing levels of compliance.[2]

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[2]James R. Jeglum, Chief, FHWA Compliance Analysis, "Performance of Safety Ratings - Proper Procedure," Memorandum dated November 29, 1982.

The findings of the Report confirm the experience of TLA's members and, as a result, TLA offers the following comments concerning the following sections of the proposed legislation.

Section 2 - Motor Carrier Safety Ratings

As the Committee knows, on December 19, 1988 FHWA announced (53 Fed. Reg. 50969) the revision of its regulations to permit public access to the safety ratings of all carriers, not just those rated unsatisfactory. It is our understanding that FHWA has, for whatever reason, been unable to secure a contractor to perform this service and is understandably reluctant to further burden its small staff to fully implement this valuable service. TLA, therefore, supports the intent of Section 2 of the proposed legislation but requests that it be modified to adopt and ratify the broader action FHWA has already taken and eliminate the one-year waiting period which could be taken as a signal to delay further efforts to provide the public with quick access to all available safety ratings. TLA also urges the Congress to appropriate whatever additional funds FHWA recommends are necessary to fully activate the safety rating notification system.

Subsection (b) would require the automatic cessation of operations by any carrier that receives an unsatisfactory safety rating. Subsection (a)(2) recognies that a carrier might wait up to a year for a reassessment of its rating, while the Report as

previously cited indicates that 18 months is somewhat more realistic. The Draconian consequences which thus attach to a rating of unsatisfactory without any prior hearing raise serious concerns about due process. The practical result might be that inspectors would become very reluctant to assign a rating of unsatisfactory. Virtually all ratings would be either satisfactory or conditional. We believe that this result would distort the purpose and intention of the rating system.

Because of the perceived defects with the rating system, TLA urges that subsection (b) of Section 2 be dropped in favor of requiring FHWA to utilize the imminent hazard requirements of 49 USC §521(b)(5) to preclude truly unsafe carriers from operating on the public's highways. Such a modification would again permit the continued implementation of FHWA's December, 1988 regulatory revisions which (1) permit carriers to appeal ratings they believe are unwarranted (49 CFR §385.15) and (2) allow a carrier to timely appeal if FHWA does determine that its operations pose an imminent safety hazard (49 CFR §386.72).

Section 3 - Imminent Hazards To Safety

In light of the above, TLA urges the adoption of Section 3 of the proposed legislation with the modification that the agency consider the issues as part of a rulemaking proceeding. Permitting public comment should expose both the practical and legal aspects necessary to fashion criteria for proper and fair

application of the imminent hazard authority.

TLA believes that 49 U.S.C. 521(b)(5) contains all the authority that DOT needs in order to require the cessation of operations by those carriers who pose a threat to public safety on the roads. DOT may summarily issue orders to employers to cease all or any part of their commercial motor vehicle operations in situations involving imminent hazard. The statute also contains appropriate provision for review of such orders under the procedures of the Administrative Procedure Act.

So far as we are aware, DOT has seldom, if ever, utilized this statutory authority to address systematic violations of the Federal Motor Carrier Safety Regulations. Instead it has come to rely upon the civil penalty as its sole enforcement tool, apparently because of its simplicity and ease of application. On the other hand, the Federal Railroad Administration has directed orders against railroad employers under the comparable emergency order authority granted by 45 U.S.C. Sec. 432(a). DOT's existing motor carrier enforcement powers should be given a fair trial before new tools are given to the agency.

Section 7 - Procedures to Ensure Timely Correction of Safety Violations

The proposed verification system, at a minimum, may need clarification. It is TLA's understanding that the present Federal system requires immediate corrective action before an out-of-service vehicle or driver can resume operations, 49 CFR

§396.9(c)(2). Certification of repair and notification to FHWA of repair completion is presently required, 49 CFR §396.9(d)(3). This proposal apparently requires the Secretary to devise a similar system for violations discovered under the MCSAP program. It is unclear how state penalties could be imposed for violations of Federal motor carrier safety regulations. Secondly, many MCSAP inspectors already impose penalties for the state law violations they discover (Report at pg. 102). TLA also recommends that the Secretary be required to study and report to Congress whether nationwide random reinspection of out-of-service vehicles is possible and practical.

Section 8 - Serious Safety Violations

TLA believes that a properly staffed and funded FHWA utilizing the present enforcement system, would be superior to the proposed system with its mandatory provisions. The Report criticizes FHWA's present policy of directing its limited resources to identify and rate all motor carriers at the expense of enforcement actions. If the same staff were now directed to automatically institute enforcement actions in connection with selected violations, it is highly likely that its efforts would be limited to the presently known pool of carriers. Such a limitation has its dangers. For example, a recent study[3] indicates that the newest entrants into regulated trucking have significantly higher accident ratios than more established

[3] T. Corsi and P. Fanara, "Deregulation, New Entrants and the Safety Learning Curve," Journal of Transportation Research Forum, Vol. 29, No. 1, 1988.

carriers. Considering its limited funding and personnel, FHWA should remain free to invest its enforcement resources where its experience demonstrates they will be most effective.

TLA has appreciated the opportunity to voice its comments in this important and generally positive response to motor carrier safety. TLA supports the Committee's efforts and stands ready to provide whatever additional assistance to the Committee that may be desired to deal positively with these serious problems.